

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, March 3, 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, H. Whittaker, J. Kluttz (arrived at 3:43 p.m.)

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

Absent: T. Finlay

Agenda Changes

Chairman Jones requested that an amendment be made to move Item A2 to an action item at the end of the agenda following more pressing matters.

Motion: F. Gammon made a Motion to Amend the agenda Item A2 to D4. B. Skelly seconded the motion. The motion passed unanimously (7-0).

Chairman Jones outlined that the by-laws do not state a specific month or length of terms for roles. His opinion is that since the Town Board grants the Board their authority, the Board should ask the Town Board to provide some guidance as to any changes they would like.

Staff confirmed that the current by-laws will be taken to the Town Board to be corrected and the appointments were made at this time last year so the Board could consider managing this on their own.

F. Gammon asked staff for confirmation if a Chairman and Vice-Chairman need to be elected today. Staff confirmed that Matt Jones and Tim Taylor are the currently elected Chair and Vice-Chair and action can be taken following the review by the Town Board of the by-laws.

Chairman Jones asked Staff to confirm that they will take this item to the Town Board and follow up with the Ordinance Advisory Board. Staff confirmed they will do that.

Motion: K. Jones made a Motion to Remove Item A3 from the agenda. B. Skelly seconded the motion. The motion passed unanimously (8-0).

Approval of Minutes

Item 2A. Consider approval of the January 6, 2022, Regular Meeting Minutes

Motion: K. Jones made a Motion to Approve the January 6, 2022, minutes. T. Taylor seconded the motion.

Vote: The motion passed (7-0-1) with J. Kluttz abstaining.

Public Comments

No comments

Action Agenda

Item 4A: 1. Consider a recommendation on Petition #TA22-04, a request by the Town of Huntersville Town Staff to amend Zoning Ordinance Article 9.54 to remove SUP requirements from Minor Solar Energy Facilities and to bring the articles language into compliance with 160D-914.

N. Farber, Planner I provided a summary of the request to remove SUP requirements from minor solar energy facilities to come into compliance with state statute 160D, make the process simpler for applicants interested in utilizing solar panels, and a reorganization and clean up of the ordinance to address the residential and non-residential structure of solar facilities.

K. Jones asked if an homeowners association can be more restrictive. Staff responded that a homeowners association can be more restrictive than the ordinance and that would be enforced by the homeowners association.

H. Whittaker asked procedurally if staff can present the current ordinance and proposed ordinance language. Staff displayed the ordinance changes that were included in the agenda packet.

M. Jones asked if the way the proposed ordinance is written, if it complies with statute, case law, and constitutional limits. Staff responded that it is in compliance.

Motion: T. Taylor made a Motion to Approve TA22-04, text amendment to article 9.54 with compliance with 160D-914. B. Skelly seconded the motion.

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

Item 4B: 2. Consider a recommendation on Petition #TA22-02, a request by the Town of Huntersville Town Board to amend Zoning Ordinance Articles 3.2.4(d)(4), 3.2.5(d)(4), 3.2.6(d)(4) and 3.2.7(d)(4)(a) to remove a provision allowing over 30% attached houses, apartment buildings and mixed use buildings at designated transit stations in the Neighborhood Residential, Neighborhood Commercial, Town Center, and Highway Commercial zoning districts.

J. Simoneau, Planning Director provided a summary of the request that would affect Neighborhood Residential, Neighborhood Commercial, Town Center and Highway Commercial zoning to remove the ability to exceed 30% attached housing. This would be for major subdivisions within ¼ mile of a designated rail transit station. The Town Board requested this amendment because there is no rail station coming in the foreseeable future.

F. Gammon asked staff for a comparison of what was permitted under the current ordinance for Vermillion Village and Huntersville Town Center and what would be permitted under the proposed ordinance. Staff responded that both projects under the proposed ordinance would

have maxed at 30% attached unless they had rezoned to a different zoning that allowed greater attached housing. Under the proposed change the rezoning would have been a Board decision versus a by-right development.

F. Gammon followed up by asking if the zoning ordinance intent statement for Town Center and if a catchment area definition will remain or be amended. Staff confirmed that the intent statement will remain but there will be no density bonuses, the definition will remain because that is tied to a transit-oriented development zoning district and applies to rail and bus rapid transit. F. Gammon concluded with the comment that he supports this amendment as he does not like the idea of density being predicated on a future transit station with no known date to be built.

M. Jones asked staff how changing the density could affect a future rail from a long-range planning perspective. Staff replied that if a rail plan begins to come together and was funded, then planning staff would absolutely revisit this language as a possible recommendation.

M. Jones stated that density changes can affect property values and it is important for the Board to consider that when reviewing these proposed changes as they have a real effect on peoples investments.

A. Hallman asked how many of the applications within Town Center have been for mixed-use. Staff responded that Huntersville Town Center is the only development with vertical mixed-use, and Vermillion Village and Gilead Road Mixed Use are proposing horizontal mixed-use.

Motion: F. Gammon made a Motion to Approve TA 22-02 and that it move forward for public hearing. K. Jones seconded the motion.

Vote: The motion passed (7-1) with M. Jones opposed.

Item 4C: 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.

N. Farber, Planner I provided a review that the proposed text amendment is being brought by staff to update the ordinance in compliance with Senate Bill 489. The added language defines where sight distances are measured from, therefore staff is proposing updates to Article 8.9.1 and Article 12.2.2 exactly as stated in HB489.

H. Whittaker requested that staff define what the terms within the roadway or edge of pavement means, and expressed concern over the statement ‘within the roadway’. Staff confirmed that it means in the right-of-way of the street and volunteered for the Engineering department to provide an explanation to the Board.

F. Gammon commented that he would like a visual display of what is changing so he can understand how this applies. Staff commented that we can request Engineering's assistance in providing that.

E. Sloop, Town Attorney stated that her understanding is that the intent of the ordinance is to add flexibility for the measuring point and this language is coming from the State. H. Whittaker responded that his concern is that the flexibility could cause a reduction of site triangle and create a challenge for the Town. E. Sloop confirmed that the Town is subject to the State statutes. H. Whittaker commented that he understands the necessity of compliance but feels that it is the responsibility of the Board not to simply vote on it because of the compliance. He would like to hear the Town Engineer's explanation and see the visual diagram to understand how the Town could be affected by this amendment.

M. Jones asked staff if our ordinance makes provision for gaining any permissions from third parties to meet the sight triangle requirements. Staff stated that generally this is on their property and they are solely responsible. M. Jones asked if the scenario was a very narrow property and the sight triangle required a neighboring property easement then this could be likened to right-of-way acquisition for site improvements and he does not want to give third parties veto power and trigger a due process issue. Staff stated that it is the developers responsibility to obtain any necessary easements as part of developing the project and public safety is of foremost concern, which is the purpose of the site triangle. Staff shared that one project in the previous 20 years has had an issue where they were not able to obtain right-of-way and both they and the neighboring property agreed to bring the matter to the Town Board to resolve. Alternatively the applicant could try to move the driveway to another location or find a different location for their project. E. Sloop followed up that the intent of this amendment is likely to encourage some flexibility.

H. Whittaker stated that this amendment should help with that situation but it could also potentially create an issue if someone moved the point of measurement due to a tree they may have the sight triangle they need but the tree will still create an issue for the drivers. He then asked if the item could be tabled. Staff confirmed that the item can be tabled but as it is a state statute we must comply with this regardless.

Motion: H. Whittaker made a Motion to Continue this item to the April 2022 regular meeting. K. Jones seconded the motion.

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

Item 4D: Checklist

M. Jones commented that the Board had voted previously to establish a checklist which was then reviewed by the UNC School of Government, whom he states thought it was a good idea. The goal of the checklist is to create a standardized process and he encouraged all Board members to review the checklist and provide their feedback and then discuss as a Board at the next meeting.

F. Gammon asked for confirmation that this is a voting member internal document only and not something issued by the Town. Staff confirmed that is correct. M. Jones concurred that was the previous statement and stated that the goal of is to provide a consistent level of diligence as advisors to the Planning and Town Board on each item they are asked to review. Reviewing applicable items from this checklist might allow Board members to provide more perspective and feedback with their questions and votes so as to assist the Boards that will ultimately vote on the item with more background and understanding.

J. Kluttz asked for confirmation that the Board members would use this in personal preparation and not as a method for Board review and discussion and expressed concern that some of the questions could be subjective, may require greater qualifications to be able to answer, and could require a significant amount of time for each item to be reviewed. M. Jones replied that some relevant questions could be specifically considered at the meeting so as to provide the deciding Boards with greater understanding on what ultimately led this Board to the decision that they came to. E. Sloop responded that when the checklist was first introduced the Board was advised that all of these items do not need to be considered as part of the deliberative process and that most of them do not apply. Prior to the Staff introducing an item to this Board the Legal department reviews the item to verify the legality.

A. Hallman commented that she views the checklist as a reflective tool to assist her with identifying a resource to assist in her getting answers to questions she may have on a topic.

F. Gammon concurred with A. Hallman's comments. It may assist him with thinking of areas that he had not otherwise considered that are helpful in being thoughtful and thorough.

B. Skelly commented that the points listed are important for diligence but if the document will be published it would be important to identify that the Board is not responsible for any of the legal analysis.

Other Business

No other business.

Adjourn

Motion: T. Taylor made a Motion to Adjourn. B. Skelly seconded the motion.

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