

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Wednesday, August 4, 2022, at Town Hall 101 Huntersville-Concord Road.

Call to Order/Roll Call

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

Voting Members Present: M. Jones, T. Taylor, F. Gammon, A. Hallman, K. Jones, J. Kluttz, B. Skelly, H. Whittaker, and T. Finlay (3:33 p.m.)

Voting Members Absent: None

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

Non-Voting Members Absent: E. Sloop and J. Glass

Approval of Minutes

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

Motion: A. Hallman made a Motion to Approve the June 2, 2022, minutes. K. Jones seconded the motion.

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

Public Comments

No comments.

Action Agenda

Item 3A: 1. Consider a recommendation on TA 22-06, a request by the Irvin Law Group to increase the building height limits for Hotels and Commercial Uses within pedestrian-oriented developments.

N. Farber, Planner II stated that this text amendment request is in connection with rezoning R22-01 for Birkdale Village. He presented the proposed site plan offices, hotel and parking features. The goal is to allow a maximum allowed building height for commercial and hotel use within Highway Commercial Pedestrian Oriented Development to not exceed 145 feet with a Special Use Permit. Additionally, the parking lot height would correlate to the building height.

Staff does not have a recommendation on this since the architectural features of the parking deck have not yet been fully submitted though the applicant is working with Staff on this.

H. Whittaker asked what the current permitted building height is and what the tallest building is in Town. Staff responded 48 feet is the current maximum permitted building height in this zoning and that the transit-oriented zoning at Bryton allows for buildings to be a maximum of 180 feet, they simply have not built anything that tall to date.

T. Taylor asked if the fire department has been consulted and if they have the equipment to service taller structures. Staff responded that they did speak with the fire chief and the equipment we have will be able to service any building height. The ladder trucks we have are the tallest that you can get, they service up to 6 stories and building code would require the stories above that to be serviced by stand pipes.

S. Irvin, 19726 Zion Avenue Cornelius NC presented for the applicant the redesign that is currently underway at Birkdale. The applicants recently completed project at Alpharetta, GA was presented as examples of the design concepts being proposed. The proposed commercial office space building would be a total of eight stories, the first two floors would each be 20 feet tall. The hotel would be a total of 12 floors with the first floor 20 feet tall.

The parking deck wording has been updated to include the wording that it shall not exceed the lesser of the height of the hotel or motel; and 70 feet. The intent being that the parking deck would never be taller than the hotel or motel or greater than 70 feet in height. The parking deck exterior architectural façade would blend with existing structures.

F. Gammon asked if this text amendment would apply to anyone other than Birkdale Village. Staff responded that currently Birkdale Village is the only area zoned Highway Commercial - Pedestrian Oriented development. Any other parcels zoned Highway Commercial could do a pedestrian oriented development and this amendment could apply to them as well by way of Special Use Permit.

K. Jones asked if this rezoning would be possible for Downtown Huntersville. Staff responded that it is possible but at this time would not be recommended by staff as Town Center is the recommended zoning for Downtown and it is not likely that the Downtown Plan would recommend this type of development for Downtown.

H. Whittaker expressed concern about the proposed height allowance possibly being requested for other zoning and asked staff if this could be restricted to Birkdale. Staff responded that with it limited to Highway Commercial pedestrian-oriented development, the requirements to achieve that zoning, and a special use permit requirement it would essentially mean you would have to build another Birkdale to be able to take advantage of this. M. Jones commented that an overlay district on Birkdale with special restrictions could be another approach.

A. Hallman asked for confirmation on what is currently allowed for hotels with a special use permit that can exceed the current maximum building height. Staff responded that under those conditions it is still limited to a maximum of six stories.

H. Whittaker asked for clarification on the height requests. Staff confirmed there are two requests, one for the overall building height not to exceed 145 feet and the parking deck not to exceed 70 feet.

A. Hallman asked what the separation distance would be for if the greater building height is permitted. Staff directed them to the proposed text amendment language items a-c which indicates the separation between commercial and residential must not be less than three times the building height.

T. Finlay asked if the proposed parking deck will be taller than the adjacent existing buildings. Staff confirmed that is correct and that is where they are working with the applicant to address the aesthetics of the proposed structure.

A. Hallman inquired about the requirements for highway commercial zoning to be developed as pedestrian oriented to establish how likely and where more development could apply for a special use permit and greater building height. Staff reviewed the requirements in Article 3.2.7 (d)(4)(b).

K. Jones referenced a statement in the text amendment application and asked Staff to identify the location along Highway 77 and Highway 115 corridor that could be affected by this amendment. The applicant clarified that the statement is a quote from the 2040 Comprehensive Plan and is relative to overall use and development along those corridors and not a specific parcel or location. Staff responded that any land zoned Highway Commercial would have to meet all of the qualifications of pedestrian-oriented development and then they would have to go through the Special Use Permit process in order and be approved by the Town Board in order to utilize this amendment.

H. Whittaker applauded the developer and expressed his appreciation for all of the work going into Birkdale Village. He then stated he continues to have reservation about the height of the building and the potential to open the door for more development to seek the greater building height. He requested a full set of site plans be available before the next meeting. The applicant responded that the proposed hotel is a luxury urban hotel that does not currently exist in Huntersville and would be a 4 or 5 star boutique style hotel.

Commissioner Munger asked Staff to clarify that currently Bryton already has permission to build a 182 foot building. Staff confirmed that is correct. He then asked the applicant the proposed value of the project. The applicant confirmed that it would be in the neighborhood of \$100 million dollars. Commissioner Munger commented that this would be a significant project for the Town.

Chairman Jones commented on the significant construction, taxes, occupancy tax and money spent in our community from those visiting and staying at these hotels. There is an enormous benefit to development being refreshed and improved so that it does not become obsolete.

Commissioner Munger commented that the potential for convention space in this space is an additional consideration. Currently convention space only exists in Charlotte and Concord and this could provide an excellent opportunity for tourism.

F. Gammon commented he does not have a problem with the proposed height, and he is sure Birkdale has to keep reimagining itself to keep drawing consumers and he looks forward to this coming back with the text amendment wording worked out.

Item 3B: 2. Consider a recommendation for TA22-09, a request by Ultimate Athlete, LLC to change the definition of Indoor Recreation Use to allow for accessory outdoor use.

At the start of the meeting, Chairman Jones informed the Board that the applicant has requested that this item be continued to the September 2022 meeting.

Motion: M. Jones made a Substitute Motion to Continue the item to the September 1, 2022 regular meeting. A. Hallman seconded the motion.

Vote: The motion passed unanimously (8-0) prior to the arrival of T. Finlay.

Item 3C: Consider a recommendation for TA22-07, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to comply with Senate Bill 105 regarding the restriction of harmony requirements if the development contains affordable housing units for families or individuals with incomes below eighty percent (80%) of the area median income.

Kayleigh Mielenz, Planner I reviewed the current harmony standards the Town Zoning Ordinance has which includes massing and architectural standards. Examples were presented of how the harmony standards are utilized to affect development placement. Staff reviewed the proposed language to be in compliance with Senate Bill 105.

Chairman Jones asked how the courts define harmony. Staff responded that the compatibility language is harmony as they understand the state statute. Because that is akin to the statute, we would need to modify what we are doing if there are two or more of the units are affordable per that statute. Chairman Jones stated that in the absence of a legal definition there should be recent case law for consideration to know how this is interpreted to understand how to amend the zoning ordinance accurately and legally. Staff confirmed they would follow up with the legal department regarding their interpretation of the case law.

F. Gammon stated that this is state statute, and we are legally bound to it so its simply a matter of making sure we are interpreting it correctly. He then asked staff to identify how they foresee this would impact development. Staff stated that in multi-family developments the massing and architectural requirements could not be required if two or more affordable housing units are offered. He then pointed out some areas of proposed text amendment that seem to read incorrectly and recommended staff review this prior to bringing it back to the Board. Staff confirmed they would review the wording.

Item 3D: Consider a recommendation for TA22-10, a request by the Huntersville Planning Department to amend Article 8.2 of the Zoning Ordinance and Section 6.800 of the Subdivision Ordinance to exclude single-family detached homes from multi-building sites on one lot, with an exception for age restricted developments.

Jack Simoneau, Planning Director reviewed the current Zoning Ordinance Article 8.2 which typically applies to shopping centers with multiple leased tenants. Just recently the Hamlet development was approved which is for rent only community. They did a multi-building site, and the homes are not on individual lots. The Town Board asked if the developer went belly up if there was a way to sell off the individual homes and the answer is no because there are no individual lots. Staff has concerns about that. While we do not want to regulate rental of homes, we can regulate density and lot widths.

Staff presented samples of recently developed communities and how they have self-transitioned to individual lots because they have found it to be beneficial.

J. Kluttz asked about how this could affect house size or lot size. Staff reviewed how this would not control that.

A. Hallman asked what the cost would be to the developer to make lot lines. Staff responded that there will be a cost but we do not know that would be.

H. Whittaker asked staff to confirm if there are lot lines would each lot be required to have parking. Staff confirmed that the number of parking spaces for the development would be the same and instead of the parking lots the parking would need to be at the lots themselves.

F. Gammon asked who would construct and maintain the roads in the development. Staff responded the process is the same regardless of this proposed amendment. The developer constructs them, the Town inspects them and if they comply with the Town standards then the Town would accept them.

F. Gammon recommended that Staff review other possible unique features to a rental only community and determine if a zoning district or overlay for rental only communities be considered.

Chairman Jones asked if there is a net benefit to the Town to require individual lots versus when the developer would prefer not to have individual lots. Staff provided an example of Rosedale Shopping Center where the complex is broken up into smaller individual lots allowing the owner to sell off smaller portions versus being locked to one large development that must be anchored by a large retailer to stay viable. The smaller lots essentially give the owner options in the future that they would not otherwise have. Birkdale Village is another great example of this.

Chairman Jones expressed additional concern about singling out this one type of development. Staff responded that it would be more in keeping with all other subdivisions.

Other Business

No other business.

Adjourn

Motion: F. Gammon made a Motion to Adjourn. A. Hallman seconded the motion.

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

Approved this ____ day of _____ 2022.

Chairman or Vice Chairman

Board Secretary