

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, September 1, 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.

Voting Members Absent: T. Finlay

Non-Voting Members Present: Commissioner Kovacs, J. Simoneau, T. Barron, E. Sloop (by conference call) and J. Glass

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the August 4, 2022, Regular Meeting Minutes

Motion: K. Jones made a Motion to Approve the August 4, 2022, minutes. B. Skelly seconded the motion.

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

Public Comments

No comments.

Action Agenda

Item 4A. 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 highlighted the 1996 building heights that were allowed to keep a small-town feel. As the town's population increased the ordinance also evolved. In 2008 a text amendment was passed to allow a maximum of 13 stories or 182' in the Transit Oriented Development- R in conjunction with the approval of the Bryton development. In 2018 a text amendment allowing hotels in Highway Commercial a maximum of 6 stories with a special use permit was passed. The proposed TA22-06 would allow hotels and commercial use in urban workplace buildings a maximum of 145' and the associated parking deck a maximum of 70' subject to a highway commercial zoning, in a pedestrian-oriented development with a special use permit.

Staff reviewed the criteria for a pedestrian oriented development which includes, it must be in Highway Commercial zoning, and have one parking space per dwelling unit in a wrapped parking deck with attached homes, apartment buildings, and mixed-use buildings. Additionally,

20% of the habitable first floor space must be commercial uses. Currently Birkdale Village is the only project zoned Highway Commercial – Pedestrian Oriented within Huntersville.

Staff displayed the distance of the proposed structures to the closest residential lot lines.

Representing the applicant, Robert Irvin, 19726 Zion Avenue shared the visuals of what the view would be from seven residential locations of the proposed structures.

H. Whittaker asked if the representation being shown is what will actually be built. The applicant, Nick Lombardo, 8712 Windholme Drive responded that there will be some concrete and metal panels that will break up the glass.

F. Gammon asked staff to clarify if the residential units within the rezoning area are considered in the setback criteria. Staff responded that they do not count because they are internal to the development. The setbacks are considered to neighboring projects.

A. Hallman asked if the applicant has considered or will be implementing bird glass. Staff responded that the only architectural requirements addressed are related to the parking deck.

H. Whittaker asked why a height limit is even required. Staff responded that the Ordinances are meant to work well in conjunction with existing development. The text amendment is proposed by the applicant and addresses the needs of the applicant, staff is in support of what is requested and would not be in support of removing a height limitation.

Motion: H. Whittaker made a Motion to Recommend Approval of TA22-06 as presented by staff. B. Skelly seconded the motion.

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

Item 4B: 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 Senate Bill 105 harmony standards for multifamily structures and 2 or more affordable housing units are offered. The Town attorneys consulted with the UNC School of Government on the interpretation of terms units, harmony and the development. When the statutes and Land Development case law do not define the terms, the plain language meaning of the term would be used.

The Town currently has harmony standards for new development for massing and architecture. Staff then presented current Mecklenburg County median income chart.

M. Jones asked for confirmation that the state statutes and current case law do not define the term harmony. E. Sloop responded that the research they conducted did not reflect any current interpretation.

F. Gammon asked how the new statute and ordinance would impact our zoning decisions. Staff responded that a major subdivision that has multifamily units with 2 or more affordable units, then the entire subdivision does not have to adhere to harmony requirements so the form and appearance of those subdivisions will change. Multi-family could be apartments or townhomes.

M. Jones commented that it is written it is subject to multiple interpretations. A major subdivision with a multifamily aspect in it could have any 2 units, including single family homes, be the affordable units and then the entire subdivision would not be subject to the harmony standards.

F. Gammon asked if Staff is recommending using Mecklenburg Counties median income versus Huntersville's median income. E. Sloop responded that Huntersville is not in a census track so that specific data subset is not available to the best of our knowledge.

F. Gammon asked if its possible to have Huntersville median income determined, and what will neighboring communities use to determine median income. E. Sloop responded that area median income is determined by region and it is distinct from average household income so area communities that do not have a data subset will also be using Mecklenburg County data to determine median income. E. Sloop stated that she will confirm if it is a population threshold that triggers being able to have a data subset specifically for Huntersville.

A. Hallman asked who monitors this down the road that the proposed affordable housing stays affordable. Staff responded that it will be noted on the plat and permit and will ultimately be a code enforcement issue if it is not upheld. Staff continued that this will no doubt be an issue for every part of the state in 5-10 years. Staff remains in contact with Planners all across the state and it is likely that there will be discussion and eventually a resolution to how to deal with this as it begins to be utilized.

F. Gammon commented that he does not think anyone on the Board is opposed to affordable housing, these are simply concerns about potential outcomes and how developers could seek to benefit from this. Staff stated that we are very concerned as well about the potential effects of this as well given the lack of guidelines. The reality is that it is state statute and we are subject to it.

H. Whittaker asked why the rush if we are the first to adopt the standards and if there is a League of Municipalities that can try to figure this out for us. E. Sloop stated that she thinks it is better to be proactive and have some language in the Ordinance versus no parameters so that when a developer comes in there is a starting place within our Ordinance.

Motion: F. Gammon made a Motion to Recommend Approval of TA22-07 as presented by staff so the item can be considered by the Planning Board and Town Board for final decision. J. Kluttz seconded the motion.

F. Gammon requested that E. Sloop investigate if the median income for Huntersville can be used or not for consideration by the Planning Board and Town Board.

A. Hallman stated that she agrees with the motion because it is time for the decision makers to give their input and make the decision, this Board has done what they can.

H. Whittaker asked for clarification if there is a mechanism to move an item forward for discussion by Planning and Town Boards with a neutral or negative comment. M. Jones responded that the meeting minutes are provided to those Boards for their review.

Vote: The motion passed (7-1) with H. Whittaker opposed.

Item 4C: Consider a recommendation for TA22-10, a request by the Huntersville Planning Department to amend Article 8.2 of the Zoning Ordinance to exclude single-family detached homes from multi-building sites on one lot, with an exception for age restricted developments.

Nathan Farber, Planner II reviewed the proposed amendment to Article 8.2 that would not affect retirement communities or congregate care facilities. Staff shared the example of the recently approved “The Hamlet” community. He then shared that staff researched local municipalities and found that the same requirements are in place with Davidson being the only community that will allow it but with additional requirements.

F. Gammon asked what Davidson’s process is. Staff responded that it is an additional step similar to our Conditional Rezoning process.

M. Jones asked if Davidson’s process applies to for rent only communities. Staff responded that it applies to subdivisions for sale or for rent.

A. Hallman asked how this amendment would change requirements beyond parking in the example show of The Hamlet. Staff responded that lots less than 50’ wide are required to have alley access parking at the rear of the property. That would have removed the parking lots, pushed the project further in from the setbacks to include alley access, possibly reduced the on-street parking or at least the demand on the on-street parking by the residents.

F. Gammon commented that the concern expressed is if the owner of the development goes bankrupt, however, apartments go bankrupt and are one lot. Staff responded that this amendment addresses multiple issues, consistency with neighboring development, consistency with the definition of single-family homes in the Ordinance, as well as some future options should the owner of the development wish to sell any of it off that becomes an option.

Additionally this is basically the same as all neighboring municipalities and does not limit rental communities.

F. Gammon asked staff to share the Epcon communities example of evolution of development. Staff responded that the Epcon at Huntersville and Kinnamon are condominiums and the people own the air-space inside of the buildings and they are developed on one lot. The Glens at Birkdale are duplexes and they are not on their own lots, that is senior housing. Epcon at Eastfield Road chose to develop on individual lots because they were experiencing some problems on the condominium side of things so they adapted their plans. The amendment would not affect retirement community or congregate care facilities.

F. Gammon asked if rental subdivisions may have private roads. Staff stated that would not be permitted without a text amendment.

Motion: K. Jones made a Motion to Recommend Approval of TA22-10 as presented by staff. A. Hallman seconded the motion.

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

Item 4D: Fee In Lieu Discussion of time allows (Harrisburg? Concord? Other good examples?)

Jack Simoneau, Planning Director stated that in Article 7 of the Ordinance it states that if you have a subdivision of property less than $\frac{3}{4}$ acre then you must have urban open space within $\frac{1}{4}$ mile of every lot measured along right-of-way. That has been adopted since 1996. For subdivisions larger than $\frac{3}{4}$ acre then it has to be $\frac{1}{2}$ mile. Urban open spaces are small open areas owned and maintained by the neighborhood and used by the neighborhood only.

The Subdivision Ordinance, Section 6.200-B(5) describes the process if a long-range plan identifies a future public park within the subdivision boundaries. It sets up a timeline for the process between the developer and Parks and Recreation to acquire the land. The statute, 160D-804(d) gives the option for accepting payment of funds to be used to acquire or develop open space and/or recreation areas which serve residents more than one subdivision or development within the immediate area.

The Huntersville Parks and Recreation Master Plan uses bubbles on a map to show a general area where a park should be considered in the future so it is not specific enough. However, the greenway is specific. The greenway map shows specific areas that a greenway will be developed. Developers have the option to dedicate that for greenway use which serves as open space and leaves the cost of the greenway development to Meck County or the Town.

M. Jones stated that when the text amendment to go from quasi-judicial to administrative approval happened this was part of that and he is glad to see it in there now. The basics of it are included but when you compare to neighboring municipalities and how it can theoretically be applied, we could go further and create a bigger benefit to the Town. There are Mecklenburg County sites and Town sites that are owned but not developed. Costs associated

with development just keep rising so the faster we can accelerate the development of those parks and greenways, the better off the Town will be. There may be some tools in this that enable the Town to accomplish this.

M. Jones asked staff, currently when we request developers to identify Open Space it is private. Staff confirmed that is correct unless it has been specifically identified in a greenway plan.

Staff responded that we will take the examples provided from other municipalities and talk with Parks and Recreation and brainstorm on some ideas that may assist with developing parks, greenways, or acquiring land.

M. Jones asked staff what the change has been in the cost of greenway development. Staff responded that 15 years ago it was estimated at \$100,000 a mile and currently it is estimated at \$1 million per mile. M. Jones followed up stating that it may have been cheaper to borrow the funds 20 years ago at municipal rates to fund the development versus waiting.

Staff highlighted how things have also changed over the years. In the 1980's and 90's many developments did not go up to the middle of the creek, creating common space corridors that are simple for Mecklenburg County to pick up and use for greenways. The floodplain that was not going to be developed was often donated since it could not be built on.

T. Taylor asked if the in lieu of fees must be used for a particular subdivision based on the current wording. Staff indicated it could be used to benefit more than one development.

Other Business

No other business.

Adjourn

Motion: A. Hallman made a Motion to Adjourn. H. Whittaker seconded the motion.

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

Approved this ____ day of _____ 2022.

Chairman or Vice Chairman

Board Secretary