

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, December 15, 2022.

Call to Order/Roll Call

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

Voting Members Present: M. Jones, J. Kluttz, A. Hallman, K. Jones, F. Gammon, B. Skelly, H. Whittaker (logged on at 3:38 p.m.), and T. Finlay (logged on at 3:43 p.m.)

Voting Members Absent: T. Taylor

Non-Voting Members Present: Commissioner Munger, J. Simoneau, T. Barron, E. Sloop, and J. Glass

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the December 1, 2022, Regular Meeting Minutes

Motion: B. Skelly made a Motion to Approve the December 1, 2022, minutes. A. Hallman seconded the motion.

Vote: The motion passed unanimously (6-0).

Public Comments

No comments.

Action Agenda

Item 4A: Consider recommendation on petition TA22-12, a Town Board sponsored text amendment to Article 4, Urban Workplace and Shopfront Building Types to clarify how to count residential and non-residential floor areas in mixed-use buildings.

J. Simoneau, Planning Director reviewed the proposed amendment with the normal definition of commercial use, exclusions to commercial use category as outlined in Article 4. Staff reviewed local area communities and it is staff's recommendation for commercial use requirement to be at 50%. This is an increase over the current requirements, and it is Staff's opinion that it would be a disincentive to increase the first-floor commercial requirement to 75-100%.

A. Hallman commented that she would support an increased percentage requirement for commercial since developers would still have the opportunity to request that be reduced with the Town Board.

M. Jones asked Staff to confirm that definition of non-residential and commented on concerns over the clarity. After reviewing the definition M. Jones expressed concern over the use of the

word non-residential. Staff stated that the word non-residential is not new and Staff is comfortable with it.

M. Jones asked Staff if the definition should be improved with the statements added by E. Sloop that all Commercial is Non-Residential but not all Non-Residential is Commercial. Staff responded that the Board is welcome to make a recommendation of that. M. Jones followed up that he thinks the definition of Non-Residential should be more specific because in his mind he does not necessarily think Commercial.

A. Hallman asked when this will go to Public Hearing. Staff responded that Public Hearing is January 3, 2023, and a recommendation from the Ordinance Advisory Board would be preferable. The Town Board could also keep the Public Hearing open and not close it and forward it to the Planning Board, otherwise it would go to the Planning Board on January 24, 2023, and then to the Town Board for final decision on February 20, 2023.

A. Hallman followed up and said it would be nice to understand more of what the Non-Residential uses could be that are not Commercial and additional time to figure that out would be helpful.

M. Jones commented that the interpretation is also important to create a more comprehensive solution which he believes is what the Town Board was trying to address. He then stated that he has written up some recommendations to the rules of construction for the Zoning Ordinance and Subdivision Ordinance that he thinks would be in keeping with the solution that the Town Board is seeking. Staff responded that they would defer to Legal to weigh in since staffs concern is that the rules of construction amendments have not been advertised so if there is going to be discussion on amending Section 2.2 of the Subdivision Ordinance or Section 12.1 of the Zoning Ordinance, that needs to be a clear agenda item. E. Sloop responded that this is a Special Meeting, and that discussion is not on the agenda we should wait until it is properly advertised to discuss it. M. Jones commented that he brought this up at each of the previous two discussions on this item so he does not understand how this would be new or unrelated. Staff commented that it was understood M. Jones wanted to work on those sections but it was not clear that was meant to be in conjunction with TA22-12, so the sections referenced have not been advertised.

F. Gammon commented that his understanding of the Rules of Procedure was that the Board had more leniency to discuss the ordinances that may apply but he would defer to Legal.

A. Hallman said that if it cannot legally be discussed now then the Board should not spin their wheels discussing part of the problem versus the entire solution that as a Board they should be considering for clarity for all future users of the Zoning Ordinance for years to come.

F. Gammon followed up that he does not want to encumber this text amendment with discussion that has not been totally vetted and will slow down the process. It may be appropriate for discussion in Item 5A on how to improve the Zoning Ordinance.

M. Jones asked Commissioner Munger if in his opinion the proposed text amendment is a comprehensive solution that addresses the concerns expressed by the Town Board that led to the proposal of the amendment. Commissioner Munger commented that while he can see room for improvement it is a step in the right direction, and he would be open to the Ordinance Advisory Board trying to work out whatever additions may be appropriate. Another consideration is that the Town Board does review the notes forwarded from the Ordinance Advisory Board meetings and that is taken into consideration when determining how to proceed and what the final amendment should look like when the Town Board reviews it.

M. Jones then asked Commissioner Munger if he felt like conditions imposed by the Town Board that the applicant agrees to should have precedence over other aspects or everything else. Commissioner Munger stated he would defer to Legal. Staff clarified that the Board is specifically authorized in the Ordinance through conditional rezoning to modify existing codes which takes precedence.

M. Jones said he would entertain a motion to defer if the Board was with him to broaden the discussion related to this text amendment to include the aspects he has brought up.

Motion: K. Jones made a Motion to Defer TA22-12 until next regularly scheduled meeting and include aspects of rules of construction in that recommendation. A. Hallman seconded the motion to support some more thought about what non-residential but not commercial is.

F. Gammon asked Staff if their recommendation would now fall after Town Board Public Hearing. Staff responded it is possible that Town Board will decide to leave Public Hearing pending feedback from this Board. F. Gammon stated that he would not support this motion because he does not feel the adjustments can be vetted and prepared to be ready with the adjustments requested by the January meeting. He would prefer for this text amendment to continue as proposed and the additional items for discussion be heard under item 5A of the agenda or another text amendment proposal.

H. Whittaker asked what is driving the January deadline. Staff advised the legal ad and this item being heard twice by this Board have created the January meeting schedule. The Town Board does not necessarily have to close the public hearing if they choose to hold it open to hear from the Ordinance Advisory Board. Commissioner Munger commented that from the Town Board perspective if it is the wish of the Ordinance Advisory Board to have the public hearing held open until there is a recommendation from this Board that the Town Board will look favorably on that.

M. Jones asked if a special request to the Town Board can be made to hold the public hearing open. Staff said it is appropriate to make that request. Commissioner Munger commented that he will need 4 votes but he does not see that as being a huge hurdle.

Vote: The motion passed (5-3) with T. Finlay, F. Gammon, B. Skelly opposed

Staff stated they would try to work with the Town Attorney to add the rules of construction. M. Jones asked staff to include looking at the non-residential definition for clarity as well.

Item 5A: Discuss making ordinances more user-friendly

K. Mielenz, Planner I reviewed the suggestions made by the Board and how Staff has or is addressing each of these issues. She then demonstrated the newly rolled out MuniCode.

F. Gammon asked if the Ordinances in Municode reference the date that they were adopted and when text amendments were made so that users can identify which area of the ordinance may have changed and when it changed to identify if they are grandfathered in under previous Ordinances. Staff stated that we would review this and identify if it can be included.

M. Jones commented that a survey to stakeholders and the public specific to making the ordinances more user-friendly and easier for an applicant or citizen to read and interpret is specifically what he had in mind. He asked if the surveys previously conducted specifically addressed this issue. Staff responded that the latest survey was face-to-face and conducted over a year ago. It was coordinated by the Town Managers office and developers of industrial, commercial, and residential were invited to participate. It was a survey of if it is not easy to read the ordinance, do you not like a specific provision of the ordinance, do you think something should be changed as well as any other areas that the participants wanted to include. M. Jones followed up and asked if there was a summary of the comments and feedback and how were these addressed. Staff responded that there is a summary which can be provided to the Board. All items were reviewed, and some were addressed, others were not.

M. Jones asked how we would move forward addressing the list of ambiguous terms. Staff recommended that the Board identify what terms they feel are ambiguous and provide that to staff to review as a starting point for the discussion.

Item 5B: Discuss petition TA22-16, a request by the Huntersville Planning Department to amend the Town Zoning Ordinance to place standards for a single apartment building on one lot.

J. Simoneau, Planning Director reviewed our current ordinance which allows one building on one lot with no limit to the size or density of that one building. Recent state legislation changes have made it so that if the developer has two or more affordable housing units at or below 80% AMI then you cannot ask for any architectural changes. Staff is considering that smaller multi-family buildings make excellent infill development opportunities. The buffers do not currently increase based on the proposed size of the building and what type of development they are adjoining. Townhomes may be an appropriate alternate to large apartment buildings when single-family dwellings are adjacent.

Staff is recommending an amendment to move multi-family from a use permitted by right to a use permitted with conditions and create new standards specific to multi-family one building on one lot apartments to increase the buffer width based on what the adjoining use and

density is within the zoning of NR, NC, TC, and HC. Staff reviewed the proposed amendment to Article 9.64 of the Zoning Ordinance. Staff reviewed how recently approved projects could have been affected.

Staff identified that this is for discussion and staff would appreciate the feedback of the Board to craft the best ordinance possible to address an issue including if there is agreement that there is an issue which needs to be addressed.

M. Jones asked Staff how the text amendment voted on at the previous meeting related to adjoining development would affect this proposed amendment. Staff stated that they would review how the two amendments would interact and provide feedback on that at the next meeting.

Staff requested that the Board email any questions they arrive at so that staff can address that in our next consideration of this item.

Item 5C: Take questions about table for UNC School of Government checklists

Motion: T. Finlay made a Motion to Defer Item 5C and 5D to the next meeting in January 2023. H. Whittaker seconded the motion.

Vote: The motion was unanimously approved (8-0).

Item 5D: Discussion on Sub-Committees

Other Business

No other business.

Adjourn

Motion: H. Whittaker made a Motion to Adjourn. M. Jones seconded the motion.

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

Approved this ____ day of _____ 2022.

Chairman or Vice Chairman

Board Secretary