



AGENDA
Ordinance Advisory Board Meeting
July 6, 2023 - 3:30 PM

TOWN HALL (101 HUNTERSVILLE-CONCORD ROAD)

Live Stream- Members of the public may view or access the meeting on YouTube at
<https://www.youtube.com/@townofhuntersvillenc28078>

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes**
 - 2.A. Consider approval of the April 6, 2023, regular meeting minutes.
- 3. Public Comments** - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*
- 4. Action Agenda**
 - 4.A. Consider a recommendation on petition #TA23-05, a request by the Huntersville Planning Department for a text amendment to Article 9, Section 9.51.1 clarifying allowed commercial uses in a detached house in the NR zoning district (*Brian Richards*)
- 5. Other Business**
- 6. Adjourn**

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 Thursday, April 6, 2023.

Call to Order/Roll Call

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

Voting Members Present: A. Hallman, K. Jones, M. Jones, H. Whittaker, J. Palillo (arriving at 3:33 p.m.), S. Harrington, M. Pollard, and F. Gammon

Voting Members Absent: J. Kluttz

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 March 2, 2023, Regular Meeting Minutes

Motion: M. Jones made a Motion to Approve the amended March 2, 2023, minutes with the comments added to include that the Board did not receive all material information on Agenda Item 4A which was the reason he voted against that item. K. Jones seconded the motion.

Vote: The motion passed unanimously (7-0).

Public Comments

No public comments.

Action Agenda

Item 4A: Consider a recommendation on petition #TA23-01, a request by the Huntersville Planning Department for a text amendment to Article 7, Part A: Landscaping altering the spacing and location of required street trees and providing greater flexibility for the types of supplemental residential lot trees.

L. Speight, Senior Planner reviewed the three sections of the proposed amendment as included in the attached exhibits.

F. Gammon asked why last installation guarantee was not required. Staff provided the example of major subdivisions and indicated that we would not want to prevent a certificate of occupancy being issued for a home if the developer elects to install all their street trees at the completion of development just prior to handing the streets over to the town.

M. Jones commented that the request to review this text amendment was due to the high cost of sidewalk repairs. He then asked if there has been an analysis to identify how the proposed amendments would create that effect. Staff responded that the Planning Department has

researched how municipalities have mitigated damage and the larger planting strips are the approach taken versus eliminating trees to mitigate the damage.

M. Jones asked if existing streets die or are cut down, could the tree be replaced with something that does create further damage. Staff responded that the department is currently working with an arborist to identify recommended replacement of trees that are dead, diseased, or dying so that the same damage does not occur and to reduce issues with monoculture.

M. Jones asked if there is a meeting of the minds between Planning and Public Works on how to best address this issue. S. Trott, Director of Engineering commented that the more room you can provide and the further the tree is from the sidewalk, the better the results are and less potential maintenance.

S. Trott shared a sample of a site plan to demonstrate the types of utility lines, trees, streetlights, and driveways that occur within or between planting strips.

J. Palillo asked if a better option would be to make one street tree per lot regardless of lot size, widen the planning strip, and make sure the house setback is sufficient so that when you park in the driveway the vehicle does not overlap the sidewalk. Staff replied that using the current method for spacing street trees provides the result of an average of one tree per lot by the time you remove stormwater inlets, streetlights, driveways, etc. Staff also shared the efforts being done to work with an arborist and identify local non-invasive small trees that would be suitable for minimum root sizes, deep tap roots to increase survivability and minimize damage as the trees mature.

H. Whittaker commented that he is concerned about putting the street tree on private property and asked if the trees convey with the deed to the new owner. Staff confirmed that it does convey, and the homeowner is responsible for maintaining and replacing the tree.

S. Harrington asked why a 7-foot planting strip width is proposed if wider has been determined as better. Staff responded that the 7-foot width is included because it is the current zoning requirement and developers would be allowed to pick the width based on the type of trees that would be planted.

J. Palillo commented that the Town may be better off recommended eliminating the 5-foot option so that government does not have to manage telling the homeowner that they have to install the street tree in their yard and

Motion: F. Gammon made a Motion to Approve TA23-01 to move forward for public hearing, Planning Board and Town Board recommendation and decision with the following text changes and considerations. Text change 1) Article 7.7.3 c be changed to read, "in cases where the front built-to range or setback is 20 feet or less be changed to 25 feet or less. Small maturing trees may be permitted." Text change 2) In article 7.7.3 c (a) be changed from 'new trees' to 'yard

trees.’ Recommendation #3 that a definition of yard trees to the Zoning Ordinance Article 12 Definitions be added. Recommendation #4 that the reference note for lots greater than 50 feet in width with the front build to depth of greater Be deleted. And that the following items be considered, #1) The wording of proposed draft text of Article 7.7.2(a) be amended to be more in line with the wording of Article 5.5.d(2) to allow more flexibility in the spacing of street trees and removal of street tree plantings near intersections. H. Whittaker seconded the motion.

F. Gammon commented that he agrees with J. Palillo’s comments, and he would prefer to be responsible for the tree on the street based on the homeowner’s association determination then putting another tree in his yard.

H. Whittaker commented that the concerns of Engineering and Public Works have not been addressed and if the discussion with the arborist will be sufficient to identify tree varieties that do not go wide or deep in root growth. Staff commented that based on conversations with other municipalities experience the arborist will consider the species and planting location of the trees whether that is the street or the yard, in addition to where the utilities are placed to determine where the trees should be planted.

J. Palillo commented that all maintenance issues cannot be avoided but should be reduced through the actions being taken. He then asked if stormwater and utility interference is as large of an issue as the sidewalk damage. K. Fox, Director of Public Works shared that since the Town is not responsible for those repairs, we are not sure how often they are happening but we do know that they happen because these repairs can require sidewalk removal. The sidewalk buckles and trip hazards are the greatest liability and expense that the Town is aware of and looking to address.

Commissioner Munger asked if Staff agreed that the motion would significantly or at least moderately have an impact of expenses related to sidewalk repair and have a negligible impact on any other utilities. K. Fox, Director of Public Works commented that to the best of his knowledge the proposal to lessen the root ball and root spread and widen the planting strip is better than what we currently have. In his opinion the best option is to put trees in yards, but this has a potential to lessen the impact moving forward. This motion is a move in the right direction and only time will tell if it is addressing the issues enough, but it is a good start.

F. Gammon commented that the motion will largely address future development and reduce those issues. Allowing existing street trees to be replaced with small maturing trees seems to be the only part that will help reduce the current issues.

H. Whittaker asked if it would be better to do away with a large tree option and only use small maturing trees for street trees. Staff commented that the option for a large maturing tree seems to be the preference because when done correctly it can create a very majestic result.

J. Palillo presented the concept of a 5-foot planting strip, 5-foot sidewalk, and 5-foot right-of-way with the tree planted at the 15-foot mark so it is on the border of the right-of-way and

yard. Now the tree is pushed 15 feet from the curb. Use the same total width that is currently being proposed but divide it up differently to allow the tree to be placed further from the curb and sidewalk and create the canopy over the sidewalk area. Staff commented that they will take this into consideration.

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

Item 4B: Consider recommendation on petition #TA23-03 Minor Subdivision Changes, a request by the Town of Huntersville Planning Department for a text amendment to Article 2 Definitions: "Subdivision, Minor" to cap the amount of lots allowed within a minor subdivision and to Article 7.5 "Buffer Yards" to require buffers for minor subdivisions located within the R and TR zoning districts.

N. Farber, Planner II presented the proposed amendment as included in the attached exhibits. The proposed amendment would limit minor subdivisions to a maximum of 5 lots in all zoning districts. The goal of this amendment is to reduce large scale minor subdivisions which can strip out the length of the roads and remove a large quantity of trees and extend curb cuts for driveways. Additionally, a 10-foot buffer would be proposed to provide a separation for minor subdivisions within the Rural (R) and Transitional Residential (TR) zoning districts to assist with the maintain the rural nature of these areas.

M. Jones discussed the current density and open space requirements of R and TR zoning districts and commented that he does not see the need to buffer residential from residential which can increase untaxed property and affect housing affordability. Staff responded that the open space requirement is up to 45% and often times minor subdivisions do not get anywhere near that. The buffer requirement would allow existing vegetation or trees to protect existing adjacent neighbors.

J. Palillo asked why the responsibility to buffer does not fall on the existing land owners to buffer themselves versus the developer to buffer when developing the land. Staff responded that in the example shown here land is not always developed at the same time or under the same ordinances. In this case buffers were not required when the existing land was developed.

Motion: K. Jones made a Motion to Approve TA23-03 Minor Subdivision changes a request by the Town Planning Department for a text amendment to Article 12 definitions, subdivision, minor to cap the amount of lots allowed within a minor subdivision and to Article 7.5 buffer yards to require buffers for minor subdivisions located within the R and TR zoning districts as written by staff. F. Gammon seconded the motion.

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

Item 4C: Consider recommendation on petition #TA23-04, a request by the Huntersville Planning Department for text amendment to Article 9.54 Solar Energy Facilities to clean up the language.

N. Farber, Planner II presented the proposed amendment as included in the attached exhibits. Staff mentioned that the previous amendment TA22-06 brought the solar requirements in compliance with NC State Statute 160d changes. This amendment would address the definition of major and minor solar facilities.

F. Gammon asked if a developer built a green development and installed a major solar farm to provide that development with power, how would the ordinances apply? Staff responded if it is a separate facility on a separate parcel then it would be considered a major solar farm. If it was installed as an accessory use on each parcel, then it would not.

J. Palillo asked how parking lot shelters with solar panels on the roof are addressed. Staff stated that they would be considered an accessory use.

Motion: M. Jones made a motion to Approve TA23-04 with the following changes, part C. 1. delete reference to general statute in the section under non-residential property because that statute only applies to residential and in section C.3. replace the word slope with surfaces. J. Palillo seconded the motion.

E. Sloop responded that the general statute reference in part C.1. are appropriate because we want the same location limitations to apply as there is no limitation to how the non-residential can be regulated. F. Gammon commented that the goal is to make the regulation mirror the statute. E. Sloop recommended removal of the language, 'pursuant to.'

Amendment: F. Gammon proposed an amendment to the motion for staff to study and resolve the use of the general statute in part C.1. M. Jones and J. Palillo accepted the amendment.

Vote: The motion passed unanimously (8-0)

Other Business

No other business.

Adjourn

Motion: F. Gammon made a Motion to Adjourn. S. Harrington seconded the motion.

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

Approved this ____ day of _____ 2023.

Chairman or Vice Chairman

Board Secretary

TA23-05: Commercial Use in NR ZONING

The purpose of this text amendment is to further clarify non-residential outdoor activities allowed within the Neighborhood Residential (NR) zoning district within ¼ mile of the Town Center (TC) zoning district.

AN ORDINANCE AMENDING ARTICLE 9.51 COMMERCIAL USE IN A DETACHED HOUSE BUILDING TYPE

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 9.51 Commercial Use in a Detached House Building Type of the Zoning Ordinance be amended as follows:

- .1 All outdoor display of goods shall be located immediately adjacent to the storefront on the front porch during the hours of operation only; display goods shall not block building access. No other outdoor activity, including outdoor seating, display is permitted.

Huntersville Ordinance Advisory Board: July 6, 2023

Public Hearing Date: September 5, 2023

Planning Board Meeting: September 28, 2023

Town Board Meeting: October 16, 2023

3.2.4 NEIGHBORHOOD RESIDENTIAL DISTRICT (NR)

Intent: The Neighborhood Residential District provides for residential infill development around the Town Core, Activity Centers and Mixed-Use Centers and their logical extensions identified in adopted long range plans. Streets in the Neighborhood Residential District must be interconnected, according to Article 5, Streets, and Urban Open Space provided according to Article 7. A range of housing types is encouraged. Low-intensity business activity is permitted in mixed-use and commercial buildings at residential scale, according to locational criteria. The intensity to which permitted uses may be built is regulated by the building type which corresponds to the use.

(a) Permitted Uses.

Uses permitted with conditions.

- commercial use, in a detached house building type, located within 1/4 mile of a Town Center district and fronting a major or minor thoroughfare (Includes properties in which any portion falls within the 1/4-mile boundary) (9.51)

(b) Permitted Building and Lot Types

- detached house (Commercial uses up to 4,500 sq. ft. of first floor area)

4.9 Lot Types / Detached House

Building Placement/Parking/Vehicle Access.

7. Commercial Use in a Detached House (NR district) shall comply with the following:

- a. Parking shall be located in the side or rear yards only. If provided in the side yards, the parking area shall not exceed 25% of the frontage line and shall not be in the yards adjacent to a street.
- b. Parking areas on adjacent mixed-use lot shall be connected whenever practical.
- c. Trash containers shall be located in the rear yard. If adjacent to existing single-family residential uses, trash containers shall be limited to residential rollout containers only (no dumpsters).
- d. Mechanical equipment at ground level shall be placed on the parking lot side of the building away from buildings on adjacent sites and shall be screened from view by an opaque screen.

9.51 Commercial Use In A Detached House Building Type

1. All outdoor display of goods shall be located immediately adjacent to the storefront on the front porch during the hours of operation only; display goods shall not block building access. No other outdoor **activity, including outdoor seating, display** is permitted.
2. The hours of operation shall be compatible with the residential area. The hours of operation shall be between 8AM and 9PM. The following activities are prohibited outside of business hours: loading and unloading of materials, exterior maintenance, refuse removal, and other activities that create a nuisance.
3. Site lighting shall meet the requirements of Article 8.26 Site Lighting