

Amended Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, March 22, 2022.

Call to Order/Roll Call

Chairman Swanick called the virtual meeting to order at 6:30 pm.

Present: S. Swanick, J. Snyder, S. Hensley, G. Baber, C. Boyd, T. Loomis, J. Wright, F. Gammon, and J. Henson

Approval of Minutes

Item 2A. Consider approval of the February 22, 2022, Regular Meeting Minutes

Motion: J. Wright made a Motion to Approve the February 22, 2022, minutes. J. Snyder seconded the motion.

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

Prior to hearing Public Comments, Chairman Stephen Swanick requested that Staff review with the Board their role regarding subdivision reviews. Jack Simoneau, Planning Director indicated that two items on the agenda are subdivision sketch plans which when they get to the Town Board will be heard as quasijudicial items. The Planning Board role is to base your decision on if the application is designed to meet the standards of the ordinance or not and should be based upon the facts. As a reminder all motions from the Planning Board should indicate if it is reasonable and in the public interest and if it complies with the long-range plan.

Public Comments

David Doctor, resident, 13515 Serenity Street stated, "we're within 250 feet of the proposed Valea subdivision development. We have submitted written comments and I will be brief. We bring two items to the Board's attention, one of which you can do nothing about, it is simply to raise your awareness. It has to do with the mandatory requirement of retention basins for stormwater runoff that's required by Mecklenburg County. We can't do anything about it, you can't do anything about it, but there is increasing awareness. The US Forestry Department, the Environmental Protection Agency, many forward looking states, many forward looking cities are increasingly using forestation to deal with stormwater runoff. So, the alternative that you are faced with as a result of Mecklenburg County rules is that the developer is going to have to strip all of the lovely forestry that is there now and create a pit that stormwater runs into. So again, we just raise that for heightened awareness. The other matter has to do with the connection of Serenity Street during the construction phase to the proposed development. What we request, and we have visited with Mr. Bowman many times, he is sensitive to the request. What we request is that Serenity Street not be opened to the development until such time as the development is ready for final paving. The purpose there is to keep the heavy construction traffic off of a Huntersville residential street. It is final improved with curbs, gutters, sidewalk, landscaping, etc. We witnessed when the development in our area on Banter was under construction and Serenity Street was final paved, that there was considerable damage to the street, to the roundabout that exists in that area. I think if you check your records with Public

Works, I think you will find that there were several amounts of reconstruction that was necessary after Banter was done. Serenity Street was under city maintenance at the time. So, we simply ask that Serenity Street not be opened until such time as the small development area off of Dellwood, which is 15 homes, be ready for final paving. That's all we have to say."

Dewayne Turner, 8416 Union Circle stated, "I am not in the community, but I am here representing the community. I am licensed realtor and commercial broker as well as a Chair for Fair and Affordable Housing Advisory Group. I wanted to make my presence here today to speak on behalf of the residents of Pottstown. There was some questioning regarding the new development that has been in place as well as proposed. The one thing that we are trying to be sensitive of in the community is, one of the reasons being is the tax hikes given that people in the community are typically of an income level that is not increasing as well as with the tax rates in the neighborhood. It's a matter of, I feel, involvement and inclusion and the Town's exclusion. The residents of the community are looking at alternative measures to increase the value in the properties around the community; however, there is a development already in place. There has been bucking against the development because it doesn't represent the interests of the community. I feel that with the proper voice they can be helped to articulate these things and maybe have some reconsideration regarding the development. I personally am not a person that is against redevelopment. I am personally, also, very mindful of including the people who are in that development. I am from another city where I have seen this happen before and I am looking to, if we could, create a way for everyone involved to be satisfied with the development. The tax rates have been changed in 2019 assessment, building has been going with Vermillion for many years prior to that so again, tax rates with the current populace of the community, it is changing. The values are changing; however, I feel it is going to get to a point where they are going to be priced out of the community based upon trends of development here in Charlotte. We have obtainable housing problem here and Pottstown is one of the remaining communities that is very historic and historically African American. There's a lot of integrity and history that they are looking to preserve. There have been people who have been there for five generations. I think what we are asking for on behalf of Pottstown is inclusion and having a voice to be more of a driver to what is happening in that development as opposed to having the voice mauled."

Mark McClanahan, 6731 Constitution Lane, Charlotte stated, "I am a commercial real estate broker with SV & Blackstream on behalf of my client, Ronnie Henson with North Mecklenburg Properties. I have three listings for his properties, one of which is on Church Street. The other is on North Old Statesville Road and Holbrook Road. I'm attending on a fact-finding mission and to meet the members of the community."

Veronna Wynn, 13219 New Haven Drive stated, "My property adjoins Valea Village, and I am a member of North Mecklenburg Communities United and I'm also here for that organizations representation of Pottstown. There are many reasons why I oppose the building of Valea Village. #1: The parcels that include Valea Village has at least one parcel without clear title that came from the Town of Huntersville. I have researched this thoroughly to determine through North Carolina One Geospatial Computer Mapping and the Counties Geospatial Computer

Mapping and an online time search firm has indicated that they could not find any other titles attached to property 01908108 which is attached to the Rosenwald School property. The search says that this property was sold by Hannah Holbrook in 1899 to what was then known as Huntersville Missionary Baptist Church and is now known as St Phillip Baptist Church. The deed book for this particular property is found at 140 on pages 126-128. #2: I oppose the development because of the adverse economic impact that it will have on my community, Pottstown. I sold Mr. Bowman some of that property, 27 acres but I did not know then how involved the Town was in fostering high-level development, high property homes in adjacent properties to ours. We thought that others would be able to develop that property for low-income persons living in Pottstown or elsewhere. What we know now is that the tax map, #63 shows Vermillion with over a thousand homes, Monteith Development is included in their tax map, and they are a little bitty community of 150 homes at most now. We dwindled down from 300 (homes) in the 80's to 150 (homes). The Town of Huntersville promised in their annexation papers when Sarah McAulay was Mayor that we would organize with extended utilities that the Town has not provided since that time. No new sidewalks, no new curb, we have water drainage and places holding water for after the rains have come. We know that as the gentleman earlier said, we get priced out of our current homes. Most of the people are over 65 who live there. Can they afford the new taxes? No. You should take that into consideration. That may not be legal, but it will be moral to hold off not sanctioning his development because he wants to come further, he wants to keep coming on and surrounding our development and squeezing out the neighborhood persons who have low income. If they are going to live there, it might be feasible in their minds to say move but to try to move to a neighborhood/income that they can afford. That might be hard. We know that the tax map shows we encroached and a few weeks ago when the Town Board was looking at the rescue plan dollars, the Assistant Plan Manager said that because the tax bracket and income level with the whole tax map #63 we wouldn't get any extra or any specific dollars from the Town of Huntersville for what is now the basic part of Pottstown. Another point I would like to make is that the trees in Valea Village are older than I am, older than 70 years. They haven't been touched for over 70 years. When Randy Quillen was Mayor, he approached my mom to get that land to make it a greenway which means he told her that there were a lot of hardwood trees and he told her that it would be a perfect place for Huntersville greenway to connect Main Street side through to Holbrook side, the communities. Mr. Bowman decimates trees. I have pictures going down Holbrook that shows how big bulldozers are making it all red clay. I can end up with the idea that this is also historic property. It surrounds the Rosenwald School and St Phillips Baptist Church, very historic African American properties in the Town that should not be overwhelmed by more development. Vermillion contains over a thousand homes. Thank you."

Agenda Change

Motion: G. Baber made a Motion to Amend the agenda and hear Item 4E as Item 4C. S. Hensley seconded the motion.

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

Action Agenda

Item 4A: Consider Recommendation for Valea Subdivision, a request by Valea Bowman, LLC to subdivide 29.217-acres located south of Dellwood Drive and east of Central Avenue at 14215 Holbrooks Road into 36 single-family lots.

J. Simoneau, Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff provided a summary of the request to subdivide 16.62 acres of an overall 31.837-acre tract, to develop 36 single family lots for a proposed density of 2.1 units/acre. All lots are 60' wide or greater therefore no on street parking is required. The proposed lot sizes are 5,106 – 9,948 square feet which on average is 7,886 square feet.

The previous modification request to reduce the buffer along St Phillips Baptist Church has been withdrawn and the applicant will have a full 20' buffer in place.

Staff reviewed the comments provided by Stewart Gray, Historic Resources Program Manager with Mecklenburg County which indicated that 410 Dellwood is the Historic Alexander House and eligible for the National Register, and 318 Dellwood Drive is a circa 1915 home that was likely an original part of the Pottstown neighborhood and may merit recognition and protection. The plan shown does not pose any significant impact to the historic character of the houses. The goal of Planning and Engineering staff is to not negatively impact those properties. The proposed road will be made up of two 9' travel lanes, 1.5' of curb and gutter on each side, 4' sidewalk on one side of the street that could potentially increase in width if there is additional width available with no grass strip or street tree requirement.

F. Gammon asked why there is no 20' buffer requirement or modification for the proposed road to the existing residential. Staff responded that similar to Holbrook Road at Hillcrest Road this can be administratively determined based on the right of way being narrow.

Staff reviewed the block length waiver request to create a 674' long block. Staff supports this request because the options for adjusting this would be limited by a creek, significant trees, the historic Rosenwald school and the existing development.

Additionally, the two parcels facing Central Avenue will have the homes oriented to face the existing streets. Staff identified the trees that are going to be saved and shared that the property falls between Mixed-Use Center and Moderate Density area and the proposed project is in keeping with that use. Staff reviewed the outstanding requirements and modification request including a connection to the historic Torrence Lytle Community Center which will be a conversation between Parks and Recreation and the Community to collaborate and identify a potential pedestrian pathway.

S. Swanick followed up on the public comment referencing parcel ID 01908108 which according to Polaris has a deed issued on August 19, 2021 and asked if staff was aware of any issues with deed, title or ownership. Staff reviewed the tax map and asked Ms. Wynn to confirm which parcel was in question. Staff identified the two parcels and stated that there was a land swap between the Town and Mr. Bowman of like sized lots as shown. Jacob Glass, Staff Attorney

stated that the records on file show that the Town owned the parcel and as part of the land swap a full title search was not done as there was proof of ownership. J. Sny asked if there are records to show how the Town obtained the land. J. Glass responded he would need to research the files but yes, according to the records available at the time of the land swap staff was comfortable that the Town had clear ownership of the parcel in question. S. Swanick stated that it is highly encouraged that this issue be investigated further.

S. Swanick asked how infrastructure is handled when a new development adjoins a neighborhood that is likely not up to current road widths and sidewalks. Staff stated that the Town has lists of neighborhoods that have requested sidewalks and they prioritize and tries to retrofit which requires willing property owners to dedicate right-of-way. The East Huntersville small area plan recommended sidewalks in the Pottstown community and with the additional traffic changing what was once dead-end roads this neighborhood really needs the Town's attention to provide a safe walking environment. It is a function of getting on the list and then the Town Board funding that. S. Swanick followed up and asked what the economics are of this process; if this is voluntary, eminent domain, or if there is compensation. Staff responded that in a similar situation the Town got a grant and is working with each individual property owner on that to convert the ditch to underground stormwater and curb and gutter. If there is no consensus then the Town Board would have to decide how to proceed and find compromise.

J. Sny asked if there has been any previous efforts to address infrastructure given it was recommended in the East Huntersville Small Area Plan. Staff stated that three years ago there was informal discussion with the community about what would be needed but it did not proceed further from there. J. Sny followed up and asked if a block grant approach has been attempted or considered, similar to Huntington Green so that the residents of Pottstown are not negatively affected by the tax map as were the residents of Huntington Green as it relates to infrastructure improvements. Staff responded that census tract boundaries are used for grants not tax maps and the qualifications are based on averages based on that information.

F. Gammon asked if the land needed for the sidewalks would either be donated private property or the Town would have to purchase it. Staff confirmed that construction easements would at least have to be granted and the map shows that there is some right-of-way but if it would fall on private property then yes, there would be some negotiation of easement or right-of-way as needed. F. Gammon followed up with the statement that even if grants were obtained it would still require the willing participation of the community and therefore is not a Town issue and has no bearing on the application submitted.

T. Loomis asked why the Town has not already had dialogue with the current residents regarding the concerns expressed about the potential tax bracket changes. Staff responded that a more proactive dialogue by the Town Board is what is necessary to create the dialogue and it seems to be their desire to do so. The community and North Meck Communities United has been around for a number of years so the infrastructure is there for the dialogue.

F. Gammon commented that at least one former Commissioner discussed sidewalks with the community directly and it did not come to fruition.

G. Baber

Motion: G. Baber made an Amended Motion to Approve the Valea Subdivision as the Planning Board finds the application complete. We find the application applies with all applicable requirements of Section 6.2, the Town of Huntersville Subdivision Ordinance. These findings of compliance are supported by policies EOS8.3, EOS10, LU2.1, LU7.1, LU11.1, T3.1, and T5.1 of the Huntersville 2040 Community Plan. Further, we also find the application to be in compliance with the directives of the East Huntersville Area Development Plan. This compliance is contingent upon the following items: 1) urban space designs are added to the plans to ensure compliance; 2) stormwater plan approval; 3) secure financial guarantee from developer to insure the future development of road C to the lot line. The Planning Board recommends approval of the sketch plan application with the following recommendations also: 1) collaborate with Huntersville Parks and Recreation staff to identify potential pedestrian connections to the Torrance-Lytle Community Center; 2) consider annexing the additional portions of the development; 3) applicant completes and provides an enhanced title search to ascertain the validity of the claim being disputed. S. Hensley seconded the motion.

Vote: The motion passed (8-1) with F. Gammon opposed.

Motion: C. Boyd made a Motion to Recuse Jay Henson from the discussion of Item 4B. J. Snyder seconded the motion. The motion passed (8-0).

Item 4B: Consider Recommendation on Petition #R21-17, a request by HFH Partners, LLC to rezone (+/- 3.8 acres) 202, 204, 206, 208 Gilead Rd from Neighborhood Residential District to Traditional Neighborhood Development Urban Conditional District for a mixed-use development (Parcel #s 01712112, 01712111, 01712110, 01712109). (Brian Richards)

B. Richards, Assistant Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff provided a summary of the rezoning request. The proposed use includes up to 19,000 square feet of commercial and 29 townhomes at a density of 7.6 units per acre.

The tree survey has been revised with a report from an arborist indicating that many of the trees are in poor health. Following that revision 2 specimen trees will be saved, 3 are required so the applicant will consider mitigation via on site planning ad fee in lieu based on what will be most appropriate.

The applicant is requesting four modifications. The first is for buffer yard reduction from 20' to 10' along the east and north property lines as well as small reduction on the west property line where there is an existing HVAC system. Staff is in support of this request and notes that the applicant is offering a higher percentage of evergreen plantings and a 6' privacy fence along the east property line to mitigate visual impact.

The second modification is for a rear setback of 14' versus the required 20-25' to allow for urban open space to be maximized. Staff is in support of this request and notes that the applicant is offering a well-designed pedestrian passageway for the interior townhomes to front.

The third modification is for a height of 33' for the townhomes that front Gilead Road where the maximum height allowed is 30' to break up the building facades and allow for the integration of vertical relief and varying architectural features. Staff is in support of this request as it is in keeping with the intent to have some architectural interest.

The fourth modification is for internal landscaping. One front and one rear yard canopy tree are required. The applicant is requesting this be waved due to small lots and the inability for canopy trees to survive and flourish. Staff is working with the applicant on this request to identify where trees can be planted on site and would consider mitigation if the full requirement could not be met on site.

The proposed site falls within the Town Core and Downtown – Tier 2. The proposed uses are supported by the Huntersville 2040 Community Plan. The 2006 Downtown Master Plan which is currently being updated indicated right-of-way improvements. The applicant is offering 80' of right-of-way and Engineering is requesting 100' of right-of-way per the unfunded STIP project U-5807. Gilead Road is designated a minor thoroughfare and as such our current ordinance requires only 70' of right-of-way.

The applicants Jay Henson and Brian Hines, 121 Gilead Road explained that the townhomes are oriented to face Gilead Road with the Cottage style townhomes with a lower profile and elevation that front a large open green area. The commercial space along Gilead Road is a 2-story flex space. The yellow house and garage will remain that will turn into some sort of commercial space. The applicants have been working to achieve an access easement to the greenway from the project and will reserve a right-of-way to accomplish this if approved by CMS, Mecklenburg County and the Town of Huntersville. The applicant explained that they are exploring an alternate underground stormwater system utilizing pervious pavers with no catch basins or pipes which will make the parking lot and the alley.

S. Swanick asked how this will compare to a traditional asphalt parking lot. J. Henson responded it will be an interlocking paver with small stones that immediately accepts water.

Abe Lehman, 6020 Stephens Road Huntersville NC is the builder for the Townhomes and stated that this similar paver system is being used currently on a project in Davidson. It has worked fantastically and through construction there has been no issue. There is no curb or gutter, and it gives a very pretty finish.

Motion: F. Gammon made a Motion to Approve R21-17, Gilead Road Mixed Use, from Neighborhood Residential (NR) to Traditional Neighborhood Development Urban Conditional

District (TND-U-CD). The Planning Board finds that the rezoning is consistent with Huntersville Zoning Ordinance Articles 11.4.7(d), 11.4.7(e), and Huntersville 2040 Community Plan policies LU2.1, LU5.1, LU5.3, LU6.2, LU6.3, LU7.1, LU8.1, LU8.2, EV2.3, DT1.3, and DT11.1. It is reasonable and in the public interest to amend the zoning ordinance because the rezoning is consistent with the envisioned uses and development pattern set forth in the 2040 Community Plan and 2006 Downtown Master Plan. The Planning Board further recommends approval of Modification #1 (buffer yard), modification #2 (rear setback), modification #3 (building height) all of which are in keeping with the spirit of the ordinance and therefore supported. Although the Planning Board is inclined to recommend approval of modification #4 (front and rear yard trees) the Planning Board supports staff's request to continue discussions to explore options or mitigation. Further, this recommendation for approval is contingent upon the applicant addressing all outstanding Staff comments. J. Snyder seconded the motion.

F. Gammon stated that he attended the neighborhood meeting to listen to what the locals had to say, and the feedback was positive regarding what is proposed.

J. Snyder agreed that the project is a welcome mix use. The applicants have demonstrated their desire to restore through their offices and now with incorporating 208 into this project is another good example of growth and keeping what we can from the old as well.

T. Loomis commented that she loves the concept and the pavers, and she thinks that incorporating some rooftop accessory use may be another good option to consider relative to the text amendment that will be discussed later.

S. Hensley commented that the two different housing types and mixed-use development is a refreshing take.

S. Swanick commented that it is a great project.

Vote: The motion passed unanimously (8-0) with J. Henson recused.

Motion: F. Gammon made a Motion to Reinstate J. Henson. J. Snyder seconded the motion. The motion passed (8-0).

Item 4C: Consider recommendation on Petition #TA22-01, a request by the Town of Huntersville Planning Department to amend Articles 11.4.3(a), 11.4.9, and 12.2.1 of the Zoning Ordinance to clarify the Down-Zoning definition and initiation of the process. (Kayleigh Mielenz)

K. Mielenz, Planner I entered her staff report into the record, a copy of which is attached hereto as Exhibit D and incorporated herein by reference. Staff provided a summary of the request to update the ordinance to come into compliance with state statute 160D.

F. Gammon asked if the definition and time lapse were sufficient. Staff commented that the portion identified has not proven to be an issue and has been written as stated since 1996.

S. Hensley asked for confirmation that the change from our current three years to the proposed two years is directly due to state statute 160D. Staff confirmed this is directly due to compliance with the state statute.

Motion: C. Boyd made a Motion to Approve TA22-01, the Planning Board recommends approval based on the amendment being consistent with all policies of the Huntersville 2040 Community Plan as the amendment is necessary to comply with state legislature, it is reasonable and in the public interest to amend the zoning ordinance because it is necessary to coordinate the Huntersville Zoning Ordinance to comply with state legislature. S. Hensley seconded the motion.

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

Item 4D: Consider a recommendation on Petition #TA21-15, a request by the Town of Huntersville Planning Department to amend Zoning Ordinance Articles 8.7, 12.2.1, 4, 7.10, and 7.11 to allow and place standards for Rooftop Amenity Spaces to exceed the maximum building height. (Jack Simoneau)

K. Mielenz, Planner I entered her staff report into the record, a copy of which is attached hereto as Exhibit E and incorporated herein by reference. Staff provided a summary of the request to allow and place standards for rooftop amenities that exceed the maximum building height, not for buildings that do not exceed maximum building height. The proposed amendment would affect shopfront mixed-use buildings and apartment type buildings only.

North State Development would like to add a 750 sq foot amenity space on top of a mixed-use building that is already proposed to meet the maximum building height. Currently this would not be permitted. The approved rezoning height is 52.5 feet. An illustration was shared demonstrating the current proposed structure and a revised structure that would be submitted with a rooftop pergola in the event this amendment is passed.

Staff reviewed area communities for research on access, building height, locations, size, and setbacks. The proposed amendment allows for the rooftop space to count towards 1,500 square feet of urban open space if the space is accessible to all residents.

The Ordinance Advisory Board did not recommend approval. The public hearing yielded one public speaker that was not in favor the amendment due to their concerns for adequate protection of surrounding properties. Several commissioners made comments that they had concerns with the potential impacts to neighboring properties and its association with the North State project. Planning Staff recommends approval.

G. Baber asked if the maximum size permitted is 1,500 square feet. Staff responded that is the maximum space allowed for buildings that exceed the maximum building height. If a rooftop amenity was within the allowed building height it could be much larger but similarly would only count 1,500 square feet towards urban open space.

C. Boyd asked relative to the comment from the public hearing if the concern was someone throwing something off of the building or what was expressed and if these same issues are addressed with buildings that do not exceed the maximum height. Staff stated that there have been some comments relative to safety and privacy as well as noise and light pollution which is why those are addressed specifically in the proposed amendment. If the rooftop amenity did not exceed the maximum allowed building height, then the additional restrictions to amplified sound and exterior lighting being off by 11:00 p.m. would not apply. There are no additional safety measures when the building does not exceed the maximum allowed building height.

T. Loomis asked if this would apply to any other projects in Town and if there would be landscape requirements or if this could simply be concrete and chairs. Staff confirmed there are no other projects submitted requesting this accessory use at this time and the proposed ordinance states that the area shall have landscaping materials. An applicant would then have to show the proposed layout and staff would identify if it met the spirit of the ordinance or would deny it and the applicant could appeal the decision to the Board.

G. Baber asked if there is a difference in requirements of urban open space and green space. Staff identified pages 6-13 of the subdivision ordinance outline the requirements which include the landscaping.

J. Henson asked if staff could show where this is being proposed relative to the North State development. Staff identified that it is proposed at the corner of Gilead and Street A which is the road that currently buffers the existing Town building on the Northwest side.

S. Swanick asked F. Gammon, Planning Board member on the Ordinance Advisory Board to provide some comments as to the split vote. He stated that his understanding was that the vote was split because not enough was offered, it was too specific for one project and should offer even more.

F. Gammon asked staff for confirmation that this accessory use could be built with this amendment but would only be eligible to count towards open space if it is accessible by all residents. Staff confirmed that is correct.

S. Hensley asked if the open space consideration is currently allowed when a building does not exceed the maximum height and if the concept of urban open space is meant to serve only the community it is within or the community whether you live there or not. Staff responded that a rooftop amenity as open space has never been requested and therefore never considered but this amendment would make that possible. Urban open space is meant to serve the community it is within and typically the maintenance is funded through that community's homeowner's association. It can additionally be open to the public.

J. Sny asked staff to share the rationale behind limiting the amplified music due to exceeding the height versus no limitation to amplified sound for a building at a lower height, and why a

rooftop amenity amendment is not being proposed regardless of building height that addresses all of these issues. Staff responded that these limitations were taken directly from neighboring municipality ordinances where it appears the goal is to regulate what may be a concern due to the exceeded height. All developments would be subject to noise and light ordinances regardless of building height. An overall amendment will likely be needed in the future for more building types, but this will be a learning experience.

C. Boyd commented that he agrees with the statement that if it needs to be regulated it should be for all rooftop amenities and not just if the building exceeds the height allowed.

G. Baber commented that to avoid another text amendment he has concerns that a building regardless of size is allowed the same 1,500 square foot limitation. Staff responded that a future rooftop amenity amendment will likely be needed but that was not the goal with this amendment.

F. Gammon made a comment that this is the first and only four-story building in Downtown. Huntersville is going to have to quickly identify what they want to be and look like and this will be a feature that will need to be included in that discussion.

Motion: S. Hensley made a Motion to Approve TA21-15, the Planning Board recommends approval based on the amendment being consistent with policies LU8, LU8.2, LU11, LU11.1, DT1.1, DT1.4, and DT11.4 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest because as the Town continues to grow it will take on more urbanized form and we expect to see greater desire for more rooftop amenities. S. Swanick seconded the motion.

S. Hensley commented that the proposed amendment could serve to enhance what is allowed and there seems to be a consensus that an urban open space is an amenity to a building and there does not seem to be a reason to penalize a pending project that has the ability and desire to incorporate this now just because we believe it could be written and done better in the future.

S. Swanick commented that this is often how new ideas are shaped. A developer may ask for something that has not been considered previously and the amendment should be crafted to make this a viable option for anyone even if the idea stems from a singular project. It has also been our practice to go back and amend further as needed to create additional improvements.

F. Gammon asked if an amendment could be made to include citing policy LU 7.2 in the motion which is stated in the staff report. **S. Hensley accepted the amendment. S. Swanick accepted the amendment.**

G. Baber stated that he is still split in his decision on this, and he does not want this to penalize the developer, but he is also torn between possibly kicking this back to staff to improve the wording and regulations. He is in support of rooftop amenities but the limitation of 1,500 feet is still a concern that he would like to get right.

S. Hensley commented that he agrees we want to get it right, but he will go back to what staff stated that this is intended to be an accessory use, given typical building sizes for these building types 1,500 square feet actually feels right and, in the future, if a large building is proposed then an amendment may be necessary.

J. Sny commented that it is a use and option that he would like to see available, he has a better understanding of what staff's intention is, and he would be fine with this as a starting point. Regardless of that he will not be voting for it due to his conflict that the applicant proposing this is the Town of Huntersville instead of North State Development and the language feels very crafted to their specific circumstances. Staff responded that when the applicant presented the accessory use that staff felt it would be a good addition for the whole town, but the amendment needed to be thoroughly researched and compared to area municipalities. As this applies to North State Development this amendment is much more than what they were proposing of 750 square feet and no need for Urban Open Space.

Vote: The motion passed (7-2) with J. Sny and T. Loomis opposed.

Item 4E: Consider Recommendation for Hill Street Subdivision-Phase 3, a request by Hill Street Bowman, LLC to subdivide 0.401-acres located at the intersection of Hill Street & Huntersville-Concord Road at 13895 Hill Street, Parcel # 01905211, into 6 town home lots.

D. Peete, Principal Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff provided a summary of the request to develop six townhome lots with a private alley access drive. Staff identified that the townhomes on the Southwest side will front an urban open space that will either be the future greenway or a park. The applicant would prefer to have the coordination with Mecklenburg County and the greenway completed but either option will be acceptable to staff.

Staff finds the application complete. There are three additional comments that include that the urban open space greenway is coordinated with Mecklenburg County, stormwater concept plan is approved by Town Engineering, and all outstanding redline comments are addressed.

C. Boyd asked what the view along Huntersville-Concord will be like with the development and/or the greenway. N. Bowman, 205 South Church Street stated that the buildings are partially below grade, and they will wait for Mecklenburg County to identify what they want for the greenway access and then they will landscape around that.

G. Baber noted that the Willingness to Serve is outstanding. Staff commented that they do not have it, but the notes already indicate that issuing of permits is contingent on this being obtained.

Motion: J. Wright made a Motion to Approve the Hill Street Phase 3 Sketch Plan as the Planning Board finds that the application is complete. The Hill Street Subdivision Phase 3 Sketch Plan complies with all applicable requirements and is supported by the Findings of Fact outlined in

parts 2-4 of the Staff Report. The Planning Board recommends approval of the proposed subdivision sketch plan with the condition: 1) urban open space greenway is coordinated with Mecklenburg County; 2) Stormwater plan is approved with engineering at the preliminary plan state; 3) that all other minor site plan/redline comments are addressed. J. Sny seconded the motion.

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

Item 4F: Consider recommendation on Petition #TA 22-02, a Zoning Ordinance text amendment by the Huntersville Town Board affecting the Neighborhood Residential, Neighborhood Commercial, Town Center and Highway Commercial zoning districts by removing the ability to exceed 30 percent attached houses (row house, townhouse or duplex), apartment buildings and mixed-use buildings (commercial & residential in one multi-story building) in major subdivisions located within ¼ mile of designated rail transit stations (3.2.4(d)(4), 3.2.6(d)(4), 3.2.5(d)(4), 3.2.7(d)(4)(a)). (Jack Simoneau)

J. Simoneau, Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit F and incorporated herein by reference. Staff provided a summary of the request to remove the ability to develop greater than 30% attached housing within ¼ mile of designated rail stations. Staff stated that the Town Board has requested that this amendment be proposed because the transit rail is not coming any time soon.

Staff reviewed a summary of the current zones and how they would be affected by this amendment. There are additional zoning districts that would allow for greater density if an applicant chose a lot within that zoning or to request rezoning to one of those designations.

S. Swanick asked for confirmation that the by-right greater than 30% attached housing will be going away and if it can still be achieved through rezoning. Staff confirmed that is correct within the ¼ mile of proposed transit rail stations and it is absolutely an option in other zoning districts, likely on parcels adjacent to zoning that currently allows that density and not as a spot zone.

J. Sny asked for clarification related to future development of 100% townhomes versus condominiums. Staff responded that 100% townhomes would likely be a major subdivision that would require stormwater which likely would not be approved. Staff stated that the only way to achieve 100% townhomes would be to strike out apartment building and mixed-use buildings and not strike out townhomes in the proposed amendment.

S. Swanick asked if parcels adjacent to Town Center zoning could seek rezoning to Town Center. Staff confirmed they could, but this amendment would remove the attached housing option from Town Center zoning as well. Staff stated that there is currently a Downtown Plan underway that will review the need for residences in proximity to businesses to achieve future growth. This Plan could potentially bring about code change that will affect this or similar zoning based on future Downtown growth but not based on future transit.

J. Henson stated that he has researched this and commented that he is not under contract with any clients that are pursuing this type of zoning, nor does it relate to the project discussed earlier this evening. He continued that he has looked at three existing sites to determine what exactly the problem is with this current ordinance. The lots yielded the same number of apartment units as they would attach housing which would become the only available option following this amendment. He stated he is not sure that the win is to only allow apartments and he struggles with taking away home ownership when the density is the same.

F. Gammon commented that the allowance of density in the Downtown area has never been the issue for him, it has been how it has been allowed. We have allowed unlimited by-right density based on the fact that they will exist within ¼ of a mile of a non-existent rail station based on a commuter rail that is not even proposed to happen. It is his understanding that the removal of basing these decisions on non-existent transit stations will allow for discussion on the correct way to allow for density under existing zoning options and possible future options that will be introduced.

J. Henson suggested that possibly the Steering Committee should be making a recommendation for the Downtown as this seems to be trying to address two different issues that should be separated, Downtown and transit rail stations.

S. Swanick replied that it is his understanding that the issue is with the boundaries being created by non-existent rail stations and the goal is to change what factors the decision for possibly density. In his opinion the error in the proposed amendment is to include Town Center zoning in this amendment. Staff responded that the amendment before the Board does not accomplish this because it is based on the request by Town Board and it would not surprise staff if changes will be proposed through the Downtown Plan Steering Committee which will look at the land uses, transportation uses and more.

Motion: F. Gammon made a Motion to Approve TA22-02, Allowed Density Near Rail-Transit Stations, as written. The proposed amendment is consistent with Huntersville 2040 Community Plan policies LU2.1, LU5.1, LU10.1, LU11.1, DT1.1, DT1.2, DT1.3, DT2, DT11.1, and DT11.2. It is reasonable and in the public interest to amend the zoning ordinance because: 1) TA22-02 removes any reference of allowed density based upon the proposed locations of rail-transit stations; 2) A variety of residential building types and rezoning options are still allowed by the zoning ordinance. S. Swanick seconded the motion.

F. Gammon commented that he is in agreement with the Town Board on this one that decisions should not be made on something that does not exist and does not appear will exist in our future. It will be the Town Boards responsibility in conjunction with the public on how they want to replace this or address this in the future and the public will be sure to let them know what they want as well.

S. Swanick commented that he seconded the motion because despite his questions and concerns he does support removing the non-existent transit station from the decision making. Any other problem solving goes beyond that.

C. Boyd asked if the motion needs to include anything regarding the problem solving or if we should simply let it play out and take however long it takes.

S. Swanick commented that he is the Planning Board representative to the Downtown Plan Steering Committee, and he would be happy to take comments to that group regarding this.

Substitute Motion: J. Sny offered a Substitute Motion to Defer this item until the public hearing is closed. S. Swanick seconded the motion for discussion.

J. Sny commented that the public hearing was extended due to one of the sponsors or co-sponsors not being present for the public hearing. It was extended until April 4, 2022. He stated that while he is not opposed to removing it, he is not a fan of repeal and not replace. We hope the replacement is coming and he would be the most open to waiting for that replacement.

F. Gammon commented that he sees no reason to hold up as the sponsor was dealing with a family matter and this request fits what he was requesting. J. Sny commented that he does not disagree, but the Town Board felt it necessary to hold the Public Hearing open which is his rationale to also not making a decision on this at this time. F. Gammon responded that there was a public hearing, and the amendment is what the sponsor requested so he sees no need in keeping this open. With a decision from the Planning Board, it would be possible for the Town Board to open the Public Hearing on April 4, 2022, and make a decision on the same evening and without the Planning Board recommendation it would be delayed to May. Staff confirmed that without the Planning Board recommendation it would be necessary for the Town Board to take action on April 4, 2022.

Substitute Motion Vote: The motion to defer failed (2-6-1) with C. Boyd, G. Baber, T. Loomis, S. Swanick, J. Wright and F. Gammon opposed and S. Hensley abstaining.

G. Baber commented that while the intent may have been to slow density he will still vote for this motion because the relation to the transit rail station being removed is something he supports as it now seems arbitrary.

T. Loomis commented that she agrees that the imaginary line from the transit station seems arbitrary and because of this she is okay removing it regardless of the end goal.

J. Sny agreed that the line does now seem arbitrary, but the density does still belong in Downtown, and he is not a fan of repealing this and not replacing this which he would be in support of doing all at once.

Original Motion Vote: The motion passed (7-2-) with J. Sny and J. Henson opposed (C. Boyd abstaining and was counted as a yes vote).

Other Business

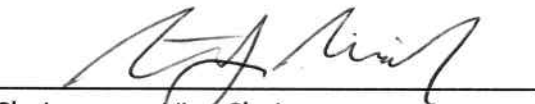
No other business.

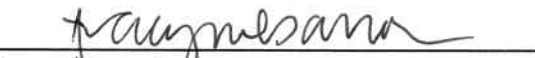
Adjourn

Motion: J. Sny made a Motion to Adjourn. C. Boyd seconded the motion.

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

Approved this 23 day of April 2023.


Chairman or Vice Chairman


Board Secretary