

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, April 26, 2022.

Call to Order/Roll Call

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

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

Absent: C. Boyd

Approval of Minutes

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

Motion: S. Hensley made a Motion to Approve the revised March 22, 2022, minutes. G. Baber seconded the motion.

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

Public Comments

No comments

Action Agenda

Item 4A: . Consider the recommendation of S22-01, Birkdale Landing Special Sign District, a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Pkwy, Tax Parcel 00917184.

L. Speight, Planner II entered her staff report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff advised that Birkdale Landing currently has a Master Signage Program which was approved in February 2020. Firebird International is requesting on behalf of the property owner, Fairway Investments to create a special sign district overlay to create greater flexibility than the current Master Signage Program.

The request is to designate the displayed exterior wall that does not front a public street as a wall eligible for an additional tenant wall sign, up to 50 square feet. The proposed sign is 42 square feet. Under the current Master Sign Program signs are permitted to face a public road and secondary signs are permitted to face the parking lot where there is pedestrian entry. Staff recommends approval based on the request being consistent with greater flexibility in form, style and design by the Huntersville 2040 Community Plan.

S. Swanick asked if this request will only affect this singular sign and no additional flexibility is being granted under this special sign district request. Staff confirmed that is correct the Master Sign Program would apply to all other signage.

G. Baber asked if this was considered a secondary sign then the maximum allowed would be 32 square feet, so how did the applicant arrive at the proposed 42 square feet. Staff responded under the request the applicant is allowed to request the size they would like.

S. Hensley asked for clarification as to why this request requires Town Board approval and if a future tenant wants something different if their request would have to return to the Board for approval. Staff explained that the sign location requested is not currently permitted under the Master Sign Program and based on the Zoning Ordinance must be submitted through a Special Sign District request which is a Town Board approval process. The Special Sign District was established for large developments where the full extent of signage needs cannot be anticipated. It allows large developments to essentially ask for what they would like and then the Town Board to review that request and determine if it is consistent and reasonable. The developers are advised to submit any and all requests and typically write flexibility into their requests to address future requests.

T. Loomis asked if the applicant stated that the reason for the sign was a turnaround issue. Staff responded that the tenant prefers the placement for visibility while driving east on Highway 73.

J. Sny asked the applicant if there was any consideration given to adhering the secondary signage size of 32 square feet. Nicole Tharington, General Counsel for Firebirds, 13850 Ballantyne Corporate Place Charlotte stated they were comparing the request to the primary signage size of up to 128 square feet when they requested 42 square feet and at staff's recommendation submitted the request for up to 50 square feet to add that flexibility. She then continued that the request is for the exterior wall facing the driveway entrance so currently when traveling east on Highway 73 the building appears vacant or possibly as an office versus commercial space.

Motion: S. Hensley made a Motion to Approve S22-01 Birkdale Landing special sign district. The Planning Board recommends approval based on the master sign plan being consistent with the Huntersville 2040 Community Plan, specifically policies LU7, LU7.2, LU8 and LU8.1. It is reasonable and in the public interest to approve this special sign district because it is consistent with the greater flexibility, form style, and design desired by the 2040 Plan. T. Loomis seconded the motion.

F. Gammon commented that he does not oppose. Anything that prevents Huntersville from having the old sign jumbles with no trees and nothing but signs he is in support of.

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

Item 4B: Consider the recommendation of TA22-03, a request by the Town of Huntersville Planning Department to amend Article 8.9.1 and 12.2.2 related to clear sight triangles in order to comply with HB 489.

N. Farber, Planner I entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff advised that the proposed amendments to Article 8.9.1 and 12.2.2 are to be in compliance with House Bill 489 which has added underlying language to state statute 160D-306. This change gives more flexibility to the

measurement location of sight distance triangles. The proposed method to measure for the Town has not changed.

J. Sny asked if the Town has always measured from the roadways edge. Staff confirmed that there are no proposed changes to the way the Town measures this just provides flexibility.

Motion: J. Sny made a Motion to Approve TA22-03. The Planning Board recommends approval based on the amendment being consistent with policy T-4 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it aims to improve the safety of everyone on our roads and sidewalks. Furthermore, it makes the Towns language compliant with Chapter 160A-306 which was amended with the passing of House Bill 489 last year. J. Henson seconded the motion.

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

Item 4C: Consider the recommendation of TA22-04, a request by the Town of Huntersville Planning Department to remove the special use requirement for street facing solar panels in Article 9.54.1 and to reorganize and clean up Article 9.54 to bring the ordinance into full compliance with State Statute 160D-914.

N. Farber, Planner I entered his staff report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff illustrated that currently side facing solar panels can be approved administratively and typically requires approximately 3 business days. Currently to put solar panels on the front of your home, facing a public street, a special use permit is required which can take up to 3 months for approval. As illustrated side facing can be just as visible as front facing solar panels.

In the past year there has been a large increase in interest in solar panels with two special use permits applied for and granted within the past six months. Staff is proposing the special use permit requirement be removed from minor solar energy facilities to reduce the burden on residential and non-residential properties.

Staff has also worked with Town Attorneys to reorganize, clean up and bring the language into compliance with state statute 160D-914. The ordinance is substantively the same with the exception of the special use permit removal.

Staff advised that a correction has been made to the proposed language to remove Items 4 & 5 from Section B: Major solar energy so that a special use permit will still be required for all Major solar energy facilities.

S. Swanick requested staff advise on the difference between major and minor solar facilities. Staff reviewed the definition. A minor must be located on the power beneficiary's premises, is intended to primarily offset part or all of the beneficiary's requirements for electric/gas; and is secondary to the beneficiary's use of the premises for other lawful purposes. Major would be anything not meeting all of the above requirements.

S. Swanick asked what criteria administration would use that could lead to not approving solar panels and to confirm this would not become a public nuisance. Staff stated that as long as the placement on the roof complies and they meet the definition of being minor then it would not be disapproved, same as the current process staff follows in approving placement on rear and side sloping roofs. Staff reviewed the basis for the zoning ordinance initially requiring a special use permit out of an abundance of caution, and the proposed adjustment to administrative also being at the request of the Town Board to reduce the amount of special use permit requirements. Additionally, if the home is located within a homeowner's association, then they would have the option of applying any further restrictions.

F. Gammon asked staff to confirm that 160D is related to residential and not non-residential use so the Town can elect to be more restrictive but not less restrictive in its application of this to non-residential use as well. Staff confirmed that is correct.

F. Gammon stated concern as it relates to the definition of residential and the lack of clearly defining if this is single-family, apartment, or a subdivision. The questions relate to the portion of the proposed language dealing with major solar facilities in a residential area. Can this and should this be a regulated, quasi-judicial procedure if it is a major facility in a residential area if it is purely for residential use? Jacob Glass, Staff Attorney stated that the Legal department reviewed if "a" residential could ever be considered a major solar facility. In response to that question, Town attorneys have added the last paragraph under the proposed language, Item B, "a special use permit will be granted if the regulations have the effect of preventing the reasonable use." That language comes exactly from 160D. Additionally the language in 160D-914 refers to "a" residential property which asks the question if that refers to a single residential property. The Town attorneys will continue to review this and have final clarifications prepared prior to the Town Board hearing the proposed language. F. Gammon agreed that this language could continue to evolve, and we could see additional changes to this in the future.

T. Loomis stated that she is personally looking in to having solar panels installed on her home and the extra panels are cost prohibitive to the additional installation.

J. Henson asked for follow up on what would prohibit approval. Staff responded that there are no specific restrictions.

T. Loomis followed up stating that the roof load limits would also prevent a lot of vertical placement and additional panels.

G. Baber commented that this appears to change the placement not the guidelines for administrative approval. Staff confirmed that their understanding of solar panels is that the panels installed would be flush with the slope of the roof.

S. Swanick stated that maybe problems that do not exist do not need to be addressed.

Motion: G. Baber made a Motion to Approve TA 22-04. The Planning Board recommends approval as it is consistent with policy EOS 9.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning ordinance because the proposed text amendment would make it easier on the applications to apply for minor solar facilities within the Town of Huntersville. S. Swanick seconded the motion.

T. Loomis thanked staff and expressed her appreciation for the attempt to make it easier for residents to invest in solar. S. Swanick concurred.

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

Other Business

Item 5A: Downtown Plan Public Forum #2 - May 12th, 6 - 8 p.m. at Huntersville Presbyterian Church

S. Swanick reviewed this information and extended the invitation to all of the Planning Board to attend this event and participate in this interactive event. Staff added that their different alternatives have been provided by the consultants. There will be a presentation followed by a display of the alternative futures and an opportunity to vote on what you want to see in Downtown Huntersville.

S. Hensley asked staff if the recent quantity of state statute changes is typical. Staff stated that it has been an extraordinary number of changes that have caused the proposed text amendments.

F. Gammon reminded everyone that Thursday, April 28 early voting begins in Mecklenburg County and the closest polling site is North Meck Library. The early voting will run through Saturday, May 14 daily.

Adjourn

Motion: S. Hensley made a Motion to Adjourn. S. Swanick seconded the motion.

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

Approved this 28 day of JUNE 2022.



Chairman or Vice Chairman



Board Secretary

