

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, September 27, 2022.

Call to Order/Roll Call

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

Present: J. Sny, F. Gammon, S. Swanick, S. Hensley, G. Baber, C. Boyd, J. Wright, J. Henson, and T. Loomis (arrived at 6:33 p.m.)

Approval of Minutes

Item 2A. Consider approval of the revised August 23, 2022, Regular Meeting Minutes

Motion: S. Hensley made a Motion to Approve the August 23, 2022, minutes. C. Boyd seconded the motion.

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

Public Comments

No public comments.

Action Agenda

Item 4A: Consider Recommendation for Honeycutt-Brown Subdivision Sketch Plan, a request by Toll, Southeast, Inc. to subdivide 239.37-acres located northeast of intersection of Gilead Road and Ervin Cook Road, Parcel #s 009-05-102, 009-04-105-109, 009-05-110-119, 009-03-201, 009-03-214, 009-03-233 & 234 & a portion of 009-03-208 for a 358-lot single-family home development. NOTE - this application was received prior to the recent text amendment regarding quasi-judicial review. Due to requests for Ordinance modifications on the plan, the applicant has chosen to continue as a quasi-judicial review.

D. Peete, Principal Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff explained that the proposed subdivision has a site size of 239.37 acres, 358 lots, 1.5 DUA, zoned Transitional Residential (TR) for single-family homes with a proposed open space of 48% for a required 40% of open space. Average lot width is 60.04' and average lot size is 7,806 square feet. The plan is compliant with tree and canopy save.

It is consistent with the 2040 Huntersville Community Plan as it is in Moderate Density with an average gross density of 1-3 units per acre. The proposed use is consistent with the Beatties Ford Road Corridor Small Area Plan and Transportation Plan for density, proposed use and transportation goals of the proposed greenway.

The applicant completed a TIA and improvements by the developer have been identified. The adjacent roads, Ervin Cook and Gilead Road are state maintained roads and NCDOT comments have not yet been received. The applicant is aware that whatever NCDOT requires must also be met. Staff explained that the TIA also indicates improvements (in blue) that are already funded even if not yet completed and this was taken into consideration for determining the applicants improvements.

Staff stated that they find the application complete with the following block-length modification requests: 1) road H from road F to road K which has a creek crossing; 2) road H from road G to road M which also has a creek crossing; 3) cul-de-sac road O which also has a creek crossing. Staff supports the three modifications for the environmental restraints.

F. Gammon asked for clarification if the cul-de-sac (road O) is a modification of road O from road F to cul-de-sac and how the road lengths are noted on the site plan. Staff explained the applicants intent and that the result are the three modifications requested and no additional modification requests.

Staff continued that open space B & E were designated as a specific type and would need to be adjusted as they are beyond the quarter-mile of the furthest properties. Staff has reviewed this with the applicant and with the amount and location of proposed open space sees no issue with making this adjustment.

Staff has reviewed with the applicant that the BMP embankments and easements must stay out of the stream buffers. All redline and transportation comments must be addressed. With those conditions, staff would recommend approval.

F. Gammon asked Staff to share how this proposed project would affect the improvements to Ervin Cook and Oliver Hager Ferry Road. Staff stated the improvements from this project would be at the southern end of Ervin Cook Road, the project approved previously as Cook Point is getting ready to break ground and that project will improve more of the northern end of Ervin Cook, leaving the middle largely unpaved portion improvements to still be reviewed as it is not currently in the CIP.

C. Boyd asked if the parcel to the west of Ervin Cook is going to be left as open space or how it would be a greenway. Staff explained that on the Greenway Master Plan there is a greenway proposed for this area as there is a creek to the extreme west of the lot, possibly to connect to the future County park to the north and even Blythe Landing. The applicant is proposing to dedicate their portion to that project. The applicant is currently proposing flat open space for that western parcel.

G. Baber asked if the proposed development will connect to the future park. Staff stated that Mecklenburg County did not want vehicular connectivity from this neighborhood to the park but there will be trails that will allow pedestrian and bike access.

J. Snyder asked Staff why connectivity is not a priority in this scenario, and what is unique about the creek crossings that support the block length modifications without the installation of a speed table or something similar. Staff stated that there is no existing stub in the adjacent lot which would set the precedence for connectivity. The block length modification is dictated by what is required to cross the creek and while adjustments could be made staff felt that the design of the road with the amount of open space and respect for the floodplains supported the modification requests. There may still be a requirement for some traffic calming measures which will be determined if the project is approved.

C. Boyd asked if road M is the stub that would be removed given Mecklenburg County not wanting connectivity to the park. Staff stated that if the Town Board honors the request of the County then the block length modification would run the length of the remaining intersections and staff would continue to support that request for the same reasons.

Matthew Leveck, ESP Associates 3475 Lakemont Blvd Rock Hill SC presented for the applicant and addressed the proposed modification requests. He highlighted how the applicant has sought a design to minimize affects to the flood plain, water features and creek crossings.

Jaime Pou, Toll Brothers 307 W Tremont Avenue Charlotte NC provided background on Toll Brothers. He stated that the pricing and timeline will be determined by the market and approval process with a goal of residency beginning in 2025. He highlighted the importance Toll Brothers places on the character of the community and features that the design of each home, outdoor space, and access to the future adjacent County park play in providing an upscale luxury community with broader price points.

F. Gammon asked the applicant if any of the currently outstanding items have been resolved. The applicant responded that they have reviewed these items with staff and they do not see any issue with complying.

Motion: F. Gammon made a motion to recommend approval of Honeycutt-Brown Subdivision sketch plan. The Planning Board finds the application is complete. The Honeycutt-Brown Subdivision sketch plan is consistent with adopted public plans and policy and complies with all applicable requirements of the Zoning Ordinance, the Huntersville 2040 Community Plan and the Beatties Ford Small Area Plan as stated within the findings of facts in parts 2-4 of the staff report. Specifically, the proposed Honeycutt-Brown Subdivision lies within the Huntersville 2040 Community Plan Moderate Density and open space future land use character area and is supported by policies LU12.3, EOS4.3, EOS8.2, EOS8.3, EOS10.1, PS8.1, T3.1, T3.2, T5.3. Based upon these findings the Planning Board recommends approval. The Planning Board also recommends approval of the requested block length modifications, Road H from Road F to Road K, not to exceed 1,779.61 linear feet. Road H from Road G to Road M, not to exceed 1900 linear feet (as finalized after discussion); Road O from Road F to cul-de-sac not to exceed 1,370 linear feet.

The recommendation is contingent upon approval of the water quality concept plan; working with staff to provide acceptable open space types for urban open spaces B & E; providing staff with a rough grading plan for the parcel west of Ervin Cook Road; addressing all outstanding Town transportation comments as outlined in part 3 of the staff report; providing and addressing all NCDOT comments that are applicable; BMP embankments being kept out of the stream buffers; and addressing all remaining redline comments with staff. J. Henson seconded the motion.

F. Gammon requested that staff provide the graphic with the block length modification requests that indicates where the block modification is located and the distance being requested so that the Board can more easily view the request. He recommended that staff include this in the presentation to Town Board as well.

S. Hensley stated he is in support of the motion and asked staff to confirm that the portion west of Ervin Cook could never be developed, it would be deeded to the homeowners association. The applicant confirmed that all of the homes will be to the east and the lot to the west will be deeded to the HOA for maintenance.

S. Hensley followed up with asking if any active use for the western lot was considered. Dan Brewer with ESP Associates 526 Woodbury Drive Mooresville NC responded that the site has the best backfill soil for the project so post-construction it will be flatter and more usable for future use which would be determined by the HOA.

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

Item 4B: Consider Recommendation for petition #TA22-10, a request by the Huntersville Planning Department clarifying that single family detached homes and duplex house types are not permitted on multi-building sites.

N. Farber, Planner II entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the proposed amendment to Article 8.2 and stated that staff recommends approval based on the amendment consistent with policy LU11 of the 2040 Huntersville Community Plan. In staff's opinion it is reasonable and in the public interest because it will protect the unique character of existing housing stock by creating equity between for sale and for rent subdivisions so they both meet the same standards, it would also create consistency with the definition of single-family homes, provide options for future transactions on the land, and it is similar to surrounding communities. The text amendment was recommended for approval by the Ordinance Advisory Board on September 1, 2022 by a vote of 7-1.

S. Hensley asked if staff knew why the descending vote was not in agreement and why retirement and congregate care are excluded. Staff responded that the descending voter felt it was over-regulation and the Town does not need to require the subdivision of the lots and the other seven voters saw staff's rationale and voted for approval. Retirement and congregate care facilities were excluded because there are several existing facilities that are developed as a single parcel.

J. Henson commented that he is struggling with this one, he asked how this would serve to protect the unique character of existing housing stock. Staff responded that it would let all single-family communities look and be designed the same regardless of whether they are for rent or for sale. A recently approved for rent single-family home community incorporated some parking areas and all of the on-street parking as designated for the residences, not for public parking as would typically be required. This amendment would require parking on a pad or garage for each unit which would remove some of the burden on the public infrastructure, the same as existing neighboring developments. Additionally, lot widths under 50' such as shown here would be required to have access at the rear of the lots which in this case could have created a greater buffer between the approved project and their existing adjacent development.

J. Henson asked if staff has explored other possible mechanisms such as distance between units or a garage requirement to solve the problem. Staff responded this approach would simply treat all single-family developments the same, there would be no additional restrictions so it would create transparency and in staff's opinion is the simplest, most direct way to address the issue.

T. Loomis asked how this would affect the cost and expressed concern about how this could affect the rental rate. Staff responded it could increase the cost but the streets would get smaller because the

current amount of on street parking could be reduced. Staff stated that homes rent in all subdivisions and the proposed amendment would keep the product the same as all existing single-family home rentals.

S. Swanick asked if this was a loophole that staff is looking to resolved. Staff responded that the applicant simply did what was allowed and staff has identified that it should be addressed.

F. Gammon commented that this new unique concept of development is within the law but just as we have different concepts for single-family homes in different zoning areas that staff may want to look at what is going on in different communities to determine if rental communities should be their own zoning district or overlay. Staff stated that we cannot have rules for rental communities that are different from for sale communities which is why staff simply wants all single-family developments to play by the same rules.

J. Sny asked J. Glass, Town Attorney if any of the neighboring municipalities that were considered in reviewing the standards have faced any legal challenges due to these standards and if the Legal department is concerned with any additional legal exposure due to this proposed amendment. J. Glass responded he is not aware of any legal challenges in neighboring municipalities and when Legal reviewed the proposed amendment there were no concerns. Staff responded that the standard is for single-family homes to be on individual lots and so the municipalities researched have had these ordinances in place for decades, they are not newly passed laws.

Motion: S. Hensley made a motion, The Planning Board recommends approval of TA22-10, Uses permitted on a multi-building lot text amendment, as it is consistent with policies LU11, LU11.1, LU11.2 in the 2040 Huntersville Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it will protect the unique character of the existing housing stock, it is consistent with the definition of single-family home, and provide options for future transactions. S. Swanick seconded the motion.

S. Hensley commented that the Zoning Ordinance and Subdivision Ordinance have been fine-tuned over the years to give us what we perceive as a good single-family development and this amendment seems to be continuing that standard for anything that looks like a single-family development and not have any kind of carve out.

S. Swanick commented that he appreciates retirement and congregate care being excluded so that unique uses such as Hope House can be allowed.

C. Boyd stated he had some hesitancy because he does not want a product to not be viable because the math does not allow it when the reality is that a product like this can be a good fit for some families.

J. Henson stated he is still struggling with this because of his agreement with what Chris said. In his opinion he would like to see more time to consider this amendment. He then asked if this were a retirement facility or age-restricted if it would be approved. Staff confirmed that a retirement community is anything age-restricted so this single-lot development would be allowed if it were age-restricted.

T. Loomis commented that she was not initially excited about this amendment but after the discussion she likes leveling the playing field for everybody in order to keep those projects viable.

F. Gammon commented that he is supportive of the motion and asked if the Board should consider removing age-restricted as an exception given the direction that staff stated that age-restricted development has already gone of adjusting to individual lots.

S. Swanick asked staff why they kept the exclusion of age-restricted in the proposed amendment. Staff responded that the existing development made staff comfortable with keeping that exclusion.

S. Hensley asked if the recently approved project would have been approved as an age-restricted development as shown. Staff responded it could have been but the distance of many of the parking areas to the units would likely have required a different design.

J. Henson asked the Board if it is worth deferring to determine if there are other things that should be thought about or considered since this affects a housing type that we do not have and that we need and that may be creating a more affordable product when we could possibly do other things aesthetically with the parking so it doesn't have to be a subdivision.

S. Hensley commented that we are also assuming it would be cost-prohibitive to make this amendment versus keeping our community standards the same for all residents of single-family home developments regardless of them being for rent or for sale.

T. Loomis commented that conformity of properties helped remove stigmas in rental communities if some are affordable or market rates. She asked if the motion could be amended to remove retirement community as an exception. S. Hensley asked staff if there was anything additional that needed to be considered as to why it was proposed. Staff said there was nothing additional. S. Hensley accepted the amendment. S. Swanick stated that in his opinion there are different factors to consider with a retirement community and we may want exceptions for this type of use so he would not accept the amendment.

J. Sny commented that this appears to be two separate discussions, one that staff brought with the text amendment and the discussion of affordability being a different discussion that would require defining affordability and how the Town would like to address that issue.

Substitute Motion: J. Henson made a substitute motion to defer the discussion of TA22-10 to the October 25, 2022, Planning Board meeting to allow the Board to review additional options and consider the potential effects of this amendment further. G. Baber seconded the motion.

G. Baber commented that he trusts staffs opinion but it feels like there are a number of opinions and more discussion that the Board could have on this topic.

S. Hensley commented that he is not opposed to deferral but he would like to understand what the goal is to accomplish with the additional time. Staff confirmed that our recommendation of the proposed amendment stands and if the Board has questions, recommendations or requests then those will need to be provided to staff.

F. Gammon and S. Swanick commented that they will support the original motion.

C. Boyd asked if there is an itemized list of what would change with this amendment. Staff responded that with the lot size there would be rear access required to some type of parking pad requirement.

Vote Substitute Motion: The motion failed (3-5-1) with S. Hensley, F. Gammon, J. Sny, S. Swanick, and J. Wright opposed and C. Boyd abstaining due to a desire to understand the affect of this decision on cost.

Additional discussion was had that determining cost is not really an option as there are too many factors.

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

Other Business

Adjourn

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

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

Approved this 25 day of OCTOBER 2022.



Chairman or Vice Chairman

Board Secretary

