Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, October 25, 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, C. Boyd, J. Wright, and T. Loomis (arrived at 6:32 p.m.)
Absent: G. Baber & J. Henson

Approval of Minutes
Item 2A. Consider approval of the revised September 27, 2022, Regular Meeting Minutes
Motion: C. Boyd made a Motion to Approve the September 27, 2022, minutes. J. Wright seconded the motion.

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

Public Comments
Nick O'Shaughnessy, 8217 Parkton Gate Drive spoke against item 4C. He stated that he is somewhat confused by the process that is going on. There was a community meeting last night with a representative of NEP (applicant). The representative stated that the text amendment had been modified from 145' to 70' and made various comments that the proposal had been revised which is different from the one that was presented prior to the public hearing. Once there is a public hearing and the applicant makes subsequent changes to the proposal, he asked what chance the public has to review the revised application. If the proposal being considered this evening is the same as the initial proposal, then he has serious comments about the aesthetics and how a 12-story hotel could fit into the neo-traditional village and small-scale development of Birkdale. The buildings proposed are generic and bland at best. They do not pay respects to the architecture and aesthetic of the neo-traditional little Birkdale village that he bought into 20 years ago. The proposal is out of scope, is visually unattractive and the applicant has stated that this project is a buffer between Highway 73 and Birkdale Village. He finds this architecturally disgusting and offensive. If they want to put a buffer between his little cute village and Highway 73 and the buildings are addressing Highway 73, he does not want their buildings. He does not mind expansion he is just against inappropriate, bland architecture which will screw up their village.

Mike Murphy, 8514 Brentfield Road spoke against items 4A, 4B and 4C. He commented that during a recent trip to London and visiting a historic village that copes with the challenges of the age of their community and smaller scale, but those sacrifices yield character which is difficult to achieve with constant development and redevelopment. He then shared that he and his neighbors have agreed that it has been difficult to understand what is being proposed despite the transparency on the Town's website causing a lot of development without the existing residents really knowing what is being developed. There is a real concern over congestion and safety. There are families out walking, cars are speeding, the sun is directly in your eyes at certain times of day, many drivers are on cell phones and crossing the road can be very difficult. While in support of the social district the mix of alcohol, children, congestion, construction, and you have a serious safety concern. In his opinion there will be a teenager driving that is going to hit someone's child at some point. He encouraged a possible pause to let some of the development that has already begun to complete before more is started. He expressed concerns about teenagers running across the cross walk between Walgreens and Inizio and about class A office space being truly for entrepreneurship use because in his experience this is not the direction his technology company is going with.

Karen Poppen, 17018 Carlton Way spoke against item 4C. She commented that she has been pleased with the upgrades that North American Properties have made. It was getting tired looking and the changes they have made have been wonderful so far. She objects to the proposal before the Board this evening for three main reasons; one – parking is terrible. It is very difficult to find a parking space on the weekends which then laps over into the residential areas. While they state they have addressed parking issues it will be a while before that is ready which will take away some of the existing parking lots being constructed and will make it even worse in the neighborhoods. Second – traffic flow is a current issue. She was the fifth car in line this evening at Sam Furr and Birkdale Commons and several cars were going on red because only three cars could go on the green light. There are not enough ways to enter/exit Birkdale. She would recommend the Town reconsider Townley Road being connected to Northcross to create one more way to enter/exit the Village. Many are now going in/out through Robbins Park because of the congestion issues. Third – the height and style of the buildings proposed. She does not mind growth, but she would like them to fit in with the size and current style of the village and not be something that looks totally out of place. It is the quaintness that brings people there. The lovely outdoor spaces and their proposal does not fit.

Dawn Snow 8132 Evanston Falls Road spoke against item 4C. She commented that she agrees that there has been non-compliance. The HOA has not been notified of the community meetings. With the changes to the proposal, she does not understand how it can be pushed through which seems like the Ordinances are being ignored. Additionally, there are traffic issues. While NCDOT projects are scheduled for 2026 we all know that those dates can change. The scale, scope and aesthetic of the proposed buildings do not fit with the neo-architecture of the village and should be limited to stay within the current zoning scope to keep the character of the village. The applicant stated that since their project is a buffer, they are stating they do not need to comply with the existing character, but it should not be a buffer, it should blend in. The proposal is offering to add 530 parking spaces with the parking deck expansion however the parking is already at capacity and Article 6 gives the parking requirements based on the building types. The site plan states that 1,050 additional parking spaces but they are only adding 530 parking spaces so how is this going to meet the needs?

Jeff Cheeks, 13128 Mayes Road commented that he had heard about Crystal Lagoon on the news and social media and as a resident of Mayes Road since 1972 he thinks it is a bad idea in many ways and not a good fit for North Mecklenburg. (Staff responded that the Developer has had a feasibility meeting but there have not been any applications submitted. If the Developer proceeds and applies, it will be added to the Town website. Currently no timelines for submission of an application.)

Joe Segarra, 9919 Cockerham Lane spoke against items 4A, 4B. He lives in Birkdale on the golf course side. There are 894 homes in their community, and he has been a resident for 16 years and is on the

Architectural Review Committee for their neighborhood. He is concerned about the congestion and safety as well as some of the losses of the stores such as the Gap, Total Wine, Corkscrew. The mix of stores are different. Parking is an obvious major problem. He wanted to know what the impact would be on the residents, so he did a study in Avalon in Georgia that is a project by the same developer. He shared names and comments regarding Avalon related to shopping, pricing, parking challenges, car break-in and noise associated with nightlife. As a previous resident of New York, he moved here for a smaller community and if he wanted the higher density he would have moved to Charlotte.

Melanie Griffin, 12900 Westmoreland Road has been a resident of Huntersville for 19 years. She also heard about Crystal Lagoon and did not want to miss out on any discussions regarding the project.

Kerry Edelstein, 8810 Camberly Road spoke against Items 4A, 4B and 4C. She commented that a plan considering 140' was shared at the public hearing, then yesterday NEP stated it was 70' and now today it sounds like it might be back to 140'. The plan is not clear to residents of Birkdale, and she understands that plans change but a good plan must start with a purpose and an objective, and she does not understand what purpose this is serving the community. To understand how development can thoughtfully improve and benefit the community and the moving parts around that require an anticipation of details so if 300+ apartments are being proposed how will their community service needs be met such as schools, roads, law enforcement, and fire safety. A boutique hotel, partnership with the Cain Center is both great ideas as well as an entrepreneurial hub but investing in office space is not on the horizon for her business as well as many others. She is not confident in the success of what is proposed. There is also the aesthetics that of some of the improvements are excellent but some of the proposed buildings are not in keeping with the existing review. The residents must go through an architectural review committee, and it seems like the businesses should be held to the same standard. It seems like there is a bad precedent to rezone without the plan versus a fully baked well thought out plan that can be clearly communicated to the existing residents before asking for rezoning.

Action Agenda

Item 4A: Consider recommendation on Petition #TA22-06, a request by DDRTC Birkdale Village, LLC to increase the building height limits for hotels and commercial uses within Pedestrian Oriented Developments that are located in the Highway Commercial zoning district.

N. Farber, Planner II entered his staff report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff handed out printed copies to all Board members and the clerk of the email dated October 25, 2022, that was received by staff and forwarded to all Board members prior to the meeting. Chairman Sny clarified for the public that the content of the email included three areas of specifying "shopfront building" and two areas of "shall not be." All statements are for legal clarification and do not change the intent of the amendment.

Staff continued with identifying the history of building heights allowed in Huntersville. The proposed amendment would allow Highway Commercial, Pedestrian Oriented Development to apply for a Special Use Permit to Urban Workplace Buildings for Hotel & Commercial Use to have a maximum building height of 145' and associated parking deck have a maximum height of 70' not to exceed the height of the primary structure.

Staff presented a map indicating the proposed location. Staff reviewed the architectural requirements proposed for any visible portion of the parking deck exposed above surrounding adjacent structures and visible from the public street.

The Board confirmed that the primary use is determined by proposed use of the ordinance and structure the parking deck is attached to and would have a maximum of 70.'

Staff identified that Birkdale Village is currently the only property in Huntersville that would qualify to apply for this Special Use Permit. Staff reviewed the requirements of the Special Use Permit which would still need to be met to utilize the text amendment. Staff recommends approval based on the amendment being consistent with policies LU2.1, 5,1, 6.2 and 8.2 of the Huntersville 2040 Plan and the applicant agreeing to the changes that staff has recommended.

S. Swanick asked if there is a common metric between stories and feet and if staff understood how many floors the proposed development would translate to under this request. Staff responded that each product could yield a different number of floors, and this will be discussed further in the rezoning request.

S. Swanick asked if any other areas of Huntersville could qualify to become Pedestrian Oriented Development (POD). Staff responded that it is possible for another area to be developed under POD, but it would be extremely difficult. It would need to be a development that combines residential, commercial, and mixed-use wrapped around parking garages in a pedestrian oriented design.

S. Hensley asked if Birkdale across the street where the driving range, or Huntersville East could qualify to become POD. Staff confirmed that they would have to design their development to address the parking criteria, be located far enough away from existing residential because the distance must be three times the height of the structure, and the development would have to come through the Board approval process for rezoning and the special use permit to be qualified to build at this height.

T. Loomis and S. Swanick asked staff to confirm that all legal requirements were met with notifying the neighbors and the plans being presented to the Board. Staff confirmed that all legal requirements have been met.

J. Sny commented on the use of the driving range poles at approximately 100 feet being used in the approval process for the hotel rezoning on the golf range side of Birkdale which is proposed to be about 7 stories.

The Board had discussion related to the use of linear feet versus total number of stories in terms of what the Zoning Ordinance allows and concerns over what is being proposed and the provided building perspective. The applicant Mike Lant, 5142 Enniskillen Ct, Suwanee, GA responded that the building perspective provided is designed at 115 feet. There is another version with a solar array on the roof. Viability of the solar ray has not yet been determined but the additional height request is to accommodate the solar array.

S. Swanick followed up and asked if the the Board were to approve the proposed 145 feet building height, then the applicant could choose to forego the solar array and add an additional two stories as proposed making this a nine-story building. The applicant confirmed that if the market demanded that it could be possible.

C. Boyd asked what the parking deck would look like at the proposed 70 feet where visible above the existing Birkdale buildings. The applicant responded that the view corridor would be too steep, and you would not be able to see it. Staff responded that the proposed requirements include any area the parking deck is visible from the street must blend in with the buildings.

F. Gammon commented that he understands that this was driven by Birkdale but in his opinion and as a pun, "Someday this town will grow up." This is only the first of these buildings that we are going to see and not all of them are going to be in Highway Commercial. He stated that he does not have a problem with this concept. That doesn't mean that he is on board with everything about the rest of this. It's the fact of this building, where it is at and the movement towards height in this community.

Motion: F. Gammon made a motion to recommend approval of TA22-06 based on consistency with policies LU2.1, LU5.1, LU6.2 and LU8.2 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it applies only to pedestrian-oriented developments and requires a special use permit. J. Sny seconded the motion for discussion purposes.

S. Hensley stated that he is not comfortable with 145 feet, and he is trying to separate it from Birkdale. He is concerned with a future developer finding 50 acres, build a POD (pedestrian oriented development) and have this same thing without the control that we have currently. He commented that the control of a special use permit also cannot be denied if it meets the criteria. He expressed a desire to see the applicant take into consideration some of the residents' concerns especially since they have already stated they are not planning on going that tall.

T. Loomis commented that she has a problem with writing a blank check. She expressed that the community she is hearing from do not seem to be in support of this, this appears to serve the needs of one developer.

S. Swanick commented that he has not heard a compelling reason to modify to 145 feet. He could support adjusting the proposal to seven stories to allow for an increase of one story over what is currently permitted.

Substitute Motion: S. Swanick made a substitute motion to recommend approval of TA22-06 to increase the building height limits for hotels and commercial uses within Pedestrian Oriented Developments that are in the Highway Commercial zoning district to a maximum of seven stories. This is reasonable and in the public interest as it meets the policies LU2.1, LU5.1, LU6.2, and LU8.2 of the Huntersville 2040 Community Plan and makes a somewhat small concession to encourage development and redevelopment in Birkdale to prevent Dick's Sporting Goods, Barnes and Nobles and others from becoming an abandoned urban blight and balance the needs of the surrounding community. C. Boyd seconded the motion.

T. Loomis asked if the reference could seven stories or 100 feet in height.

J. Sny commented that he would not support a motion referencing stories as it is not defined.

S. Swanick commented that given the current criteria of six stories he chose the seven stories to be in keeping with the current ordinance. Staff advised that the current criteria is 48 feet and with the special use permit it would be six stories and three times the distance of the setback. Under this criteria Birkdale would be allowed six stories up to 450 feet in height.

S. Swanick withdrew his substitute motion to make an alternate motion.

Alternate Substitute Motion: S. Swanick made an alternate substitute motion to recommend approval of TA22-06 to increase the building height limits for hotels and commercial uses within Pedestrian Oriented Developments that are in the Highway Commercial zoning district to a maximum of 115 feet. This is reasonable and in the public interest as it meets the policies LU2.1, LU5.1, LU6.2, and LU8.2 of the Huntersville 2040 Community Plan and makes a somewhat small concession to encourage development and redevelopment in Birkdale to prevent Dick's Sporting Goods, Barnes and Nobles and others from becoming an abandoned urban blight and balance the needs of the surrounding community. J. Wright seconded the motion.

S. Hensley commented that the main point he would like communicated to the Town Board is that the Planning Board is not comfortable with 145 feet but could be comfortable with an alternative height.

J. Sny asked the applicant if they were willing to reduce the proposed building height. The applicant confirmed that the current motion on the table (115 feet) would meet their needs.

S. Hensley asked staff regarding architectural controls that are being submitted for the parking decks but not for the buildings. Staff confirmed that the existing architectural standards of Article 4 would apply, and this text amendment would introduce the standards for parking decks of this height as they would be new to the Zoning Ordinance.

F. Gammon commented that he does not see a lot of difference between the applicant's proposal and what is being recommended. In his opinion, add a story and he would support it more.

Substitute Vote on Alternate Motion: The motion passed (6-1) with F. Gammon opposed.

Item 4B: Consider recommendation on Petition #SUP22-01, a request by DDRTC Birkdale Village, LLC to exceed the building height limits for hotels and commercial uses within Pedestrian Oriented Developments that are located in the Highway Commercial zoning district.

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 requirement criteria for a special use permit for this use. Since the completion of the staff report the applicant has provided the letter that is being distributed to the Board as proof that the proposed use would not negatively impact the assessed or market value of abutting property. This is left to the Board to determine if this meets the criteria of item two of the criteria. Staff recommends approval as the request could meet all the required conditions and specifications.

J. Glass reviewed the criteria for Special Use Permit quasi-judicial hearing for the Town Board and the role of the Planning Board as making an advisory recommendation.

T. Loomis asked Staff to review the criteria of notices being mailed out and the list of who notices were sent to.

F. Gammon reviewed the concern related to the proposed structures not blending in with the existing architecture and would not meet the harmony requirement. Staff confirmed they feel that the proposed structures are in harmony with the 2040 Community Plan for future growth. S. Irvin referred to the letter the applicant provided from their expert witness which acknowledges that the proposed development is in harmony with the goals stated in the 2040 Community Plan for future development when considering density and zoning. F. Gammon asked for confirmation that architectural harmony does not have to be considered at this time. Staff confirmed that the architectural element will be considered in the rezoning.

S. Hensley concurred that in his opinion harmony is not limited to height, density, zoning, and future plans. The application appears incomplete to not also address architectural harmony. S. Irvin provided a presentation of the proposed architectural elements to be further discussed during the rezoning application.

Motion: J. Sny made a Motion to recommend denial of SUP22-01. The Planning Board finds that the request does not meet all required conditions and specifications. This decision is supported by the lack of competent material and substantial evidence that has been provided regarding 11.4.10.2 which pertains to the value of abutting properties. The evidentiary document provided has numerous facts within, said facts are not directly correlated to the addition of the proposed buildings nor are they forward looking in nature, it is looking at past values and performance. Based on this the application is lacking and this is required to support this. S. Hensley seconded the motion.

S. Swanick commented that he is opposed to the approval of the SUP but not for the reason stated. In his opinion the document provided is from an expert witness and addresses that there will be no negative impact. His reason for denial would be that harmony is not met with the two renderings provided as a view from Highway 73.

J. Sny commented that the evidentiary document addresses past results and does not appear to make the case sufficiently with the data presented.

S. Hensley requested that an amendment be made to the motion to include, "Per Article 11.4.10(e)2.iii, the applicant has not proven the proposed special use will be in harmony with the area in which it is located because there are no details or specific elevations provided." J. Sny and S. Hensley accepted the amendment.

Amended Motion: J. Sny made a Motion to recommend denial of SUP22-01. The Planning Board finds that the request does not meet all required conditions and specifications. This decision is supported by the lack of competent material and substantial evidence that has been provided regarding 11.4.10.2 which pertains to the value of abutting properties. The evidentiary document provided has numerous facts within, said facts are not directly correlated to the addition of the proposed buildings nor are they forward looking in nature, it is looking at past values and performance. Per Article 11.4.10(e)2.iii, the applicant has not proven the proposed special use will be in harmony with the area in which it is located because there are no details or specific elevations provided. Based on this the application is lacking and this is required to support this. S. Hensley seconded the motion.

C. Boyd and S. Hensley asked staff to confirm if the architectural requirements can be addressed as a condition of the motion.

Amended Motion Vote: The motion passed unanimously (7-0) with F. Gammon opposed for different cause.

Item 4C: Consider making a recommendation on Petition #R22-01, a request by DDRTC Birkdale Village, LLC to rezone +/- 8.82 acres located at the intersection of Townley Drive and Lindholm Drive (Parcels 00537157 and 00537197) from Highway Commercial Conditional District to Highway Commercial Conditional District for 350 multi-family units, 125-room hotel, 150,000 sq. ft. office, and 25,000 sq. ft. commercial.

B. Richards, Assistant Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff reviewed the history of rezoning of Birkdale as well as the future growth models shared at the time of those rezonings. Staff recommends approval as the applicants have addressed the comments.

C. Boyd asked staff if occupancy would be delayed until the State fulfills the road improvements that caused the TIA findings as nothing additional needed and if the Planning Board could propose that as a condition. Staff said occupancy could happen when the buildings are completed, and the State is guaranteeing that the road improvements are already funded in the future. Any proposed conditions would have to be agreed to by the applicant.

F. Gammon and Board members asked Staff to confirm the timeline and status of proposed road improvements surrounding the Birkdale area.

S. Swanick asked Staff if the proposed parking would be sufficient for the proposed development and the efforts to comply with the notification requirements of the rezoning. Staff reviewed the total parking proposed is 1,172 spaces which exceeds the Town requirements by 280 spaces. Staff relayed that Town Staff received the applicants mailed rezoning notice and has spoken to the applicant who confirmed that the notices were mailed to all the required parties including the two HOA's.

S. Swanick asked Staff to review the Townley Road improvements. Staff confirmed how it would be laid out and that previous Town Board removed it from the CIP, Staff would entertain it being put back on the CIP.

J. Sny followed up on the mailing notifications and neighborhood meeting requirements. Staff reviewed the mailing requirements and list generation and stated that legally one neighborhood meeting is required, and additional meetings are at the applicant's leisure.

The applicant, M. Gant reviewed a presentation of the proposed redevelopment.

F. Gammon suggested to the applicant that they include the percentage of commercial, residential, and non-residential on the first floor of the proposed structures for their Town Board presentation. He then asked if the adjustment to the approved building heights in the text amendment would affect the proposed parking height. The applicant stated they would need the full 70 feet for parking decks.

C. Boyd asked the applicant how the parking would be used. The applicant responded that the first floor would be for commercial, second floor for existing residents, and levels above that for the office space which would convert to public parking in the evenings/weekends.

C. Boyd asked the applicant if they would entertain delaying occupancy until the State completes the road improvements on Highway 73 or participating with the Town in developing Townley Road as an alternate entrance/exit. The applicant responded that Barnes and Noble have signed a two-year lease extension and Dick's Sporting Goods has signed a five-year lease so proposed developments would begin at the completion of those leases, take approximately two-years to develop and then occupancy could begin. The applicant stated that the project does not likely have the funds to add the additional infrastructure of Townley Road development.

T. Loomis asked the applicant about their incorporation of local businesses, proposed office space, and family-friendly environment.

S. Hensley asked the applicant if the vesting period will be sufficient given the timeline laid out. The applicant stated they have asked for the maximum allowed and they foresee pulling permits within that timeline and construction beginning. S. Hensley recommended the presentation to the Town Board have a simple supporting statement to the direct tax benefits that are being stated and how that was determined.

J. Sny asked if any of the proposed uses could be successful without one of the other, how the applicant is prepared to adapt uses if needed, and what research has been completed to support the office space needs that are being proposed. The applicant stated that the hotel would need the office, but the multi-family could be successful on its own.

C. Boyd asked if the architectural elements being shown are what the finished product will look like or is the applicant willing to match more closely what is currently in Birkdale. The applicant stated this is just a concept and they have received a lot of compliments on this, and they would be willing to look at other finishes.

J. Sny expressed that the buildings look good but are very disparate to the existing structures in scale and finish as expressed by the neighbors so more harmony or blending would be beneficial.

Motion: F. Gammon made a Motion to recommend approval of the petition R22-01 Birkdale Village. The Planning Board has considered and finds that the rezoning is consistent with Huntersville Zoning Ordinance Articles 11.4.7 (d) and 11.4.7 (e). Furthermore, the petition is consistent with the Huntersville 2040 Community Plan policies LU2.1, LU6.1, LU7.1, LU8.1 and LU8.2. This recommendation for approval is contingent upon Huntersville Town Board approval of TA22-01 Building Height and SUP22-01, all outstanding staff comments are addressed. It is reasonable 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. S. Swanick seconded the motion.

F. Gammon commented that he appreciates that residents in the immediate locale have an opinion, but Birkdale is also a destination for our Town that brings money, people, and interest into Huntersville. The development has a life span and improvements need to be made to keep the business lively.

S. Swanick commented that he values the discussion and compromise found this evening and this change will help ensure that Birkdale is a destination in the next 25 years which is why he can support it.

T. Loomis commented that she is not going to support it. In her opinion what is missing are phases and she cannot approve adding more all at once because that does not seem to be in the public interest.

C. Boyd commented that he thinks we do need the growth and the building height, but he would also not be able to support this due to the lack of infrastructure.

J. Wright commented that she is in support of the request because it would help the area and the destination.

S. Hensley commented that he is not opposed to the components but with the height amendment that was recommended in the text amendment he cannot support this motion and he has continued concerns regarding the harmony of the proposed structures to the existing development.

S. Swanick asked if F. Gammon would accept an amendment to add, "and that hotel and commercial building maximum heights be changed from 145 to 115 feet." F. Gammon and S. Swanick accepted the amendment.

S. Hensley commented on his continued concerns over the harmony standards, and he gets the sense that the applicant has a willingness to work with the Town on the harmony, but it has not been defined so he would recommend deferral.

J. Sny asked the applicant if they would consider a deferral and could the present more information to demonstrate harmony. S. Irvin responded that designing the building is not viable at this point of the project or in the time that a deferral would create. She proposed that the applicant has clearly heard the concerns of the Planning Board and would be open to meeting with Staff prior to bringing this request to the Town Board to draw up some amicable items that could be agreed to in harmony via comments.

Substitute Motion: S. Hensley stated that with the extended leases there does not seem to be the urgency that 30-60 days would impose on this, so he recommends a substitute motion to defer recommendation to November 15, 2022. T. Loomis seconded the substitute motion.

Substitute Motion Vote: The motion failed (3-4) with F. Gammon, J. Sny, S. Swanick & J. Wright opposed.

C. Boyd commented that an approach that NCDOT will solve the problem is not reasonable and some less costly temporary improvements to the infrastructure should be considered.

J. Sny commented on the methodology that NCDOT uses in determining need is reactive not responsive so while it can appear that problems are being created the reality is that the state will not pursue solving the infrastructure until there is a problem.

Amended Motion: F. Gammon made a Motion to recommend approval of the petition R22-01 Birkdale Village. The Planning Board has considered and finds that the rezoning is consistent with Huntersville Zoning Ordinance Articles 11.4.7 (d) and 11.4.7 (e). Furthermore, the petition is consistent with the Huntersville 2040 Community Plan policies LU2.1, LU6.1, LU7.1, LU8.1 and LU8.2. This recommendation for approval is contingent upon Huntersville Town Board approval of TA22-06 Building Height and SUP22-01, all outstanding staff comments are addressed, and that hotel and commercial building maximum heights be changed from 145 to 115 feet. It is reasonable 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. S. Swanick seconded the motion.

Amended Motion Vote: The motion passed (4-2-1) with C. Boyd and T. Loomis opposed and S. Hensley abstaining.

Item 4D: Consider a recommendation on Petition #R22-03, a request by Alan Spragins for Hawthorn Devco, LLC to rezone +/- 9.219 acres located at 6925 April Mist Trail (Parcel 01516113) at the corner of Beatties Ford Road and April Mist Trail from Highway Commercial Conditional District to Neighborhood Residential Conditional District.

J. James, Principal Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit D and incorporated herein by reference. Staff reviewed the current conditional zoning on this land from 1991 and the proposed development.

J. Sny asked if there is any connectivity requirement from Tanners Creek development. Staff responded that there is an existing stub, and the development would connect to the sidewalks. An emergency access has been requested for this stub.

Kristi Nelnanski, 2260 Mc Gilchrist Street SE Salem, Oregon 97302 made a presentation for the applicant. The applicant is open to the emergency access but the neighbors in the existing development would really like to see it left closed. The applicant would like to propose pedestrian access only from Cambridge Grove into the development to preserve the existing natural buffer that would be greatly reduced to make way emergency access and pedestrian access.

Motion: S. Hensley made a Motion to recommend approval of petition R22-03, Huntersville Retirement Residence subject to the plans being modified to show the double row of trees along April Mist Trail in addition to any additional staff comments. The proposal is consistent with the Huntersville 2040 Community Plan specifically policies LU2.1, LU10.5, and EOS6 and PS5.1 as well as the design recommendations within the Beatties Ford Road corridor small area plan. Although this project does not provide the mix of land uses detailed in policy LU6 by removing commercial uses in this activity center, it does diversify the housing option and further it is consistent with the surrounding neighborhoods character by preserving the rural landscape of the Beatties Ford Road corridor. T. Loomis seconded the motion.

S. Swanick commented his support for this development.

T. Loomis commented she loves the amenities that they are brining and thinks it will be a great addition.

J. Sny likes that this specific type of housing was called out in the 2040 Plan and is being addressed. In his opinion the sidewalk connection does not seem necessary as it is its own entity.

S. Hensley thanked the applicant for designing a product that fits with the Zoning Ordinance.

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

Item 4E: Consider recommendation on petition #TA22-07, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to comply with Senate Bill 105 regarding the restriction of harmony requirements when multi-family structures are an allowable use and the development contains affordable housing units for families or individuals with incomes below 80 percent of the area median income.

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 reviewed the proposed text amendment.

S. Swanick commented that this is a compliance amendment and asked staff to confirm that this would mean that if a developer has two affordable units that the developer would not have to meet any architectural standards. Staff stated that only the standards related to harmony are removed.

F. Gammon commented that the Ordinance Advisory Board heard this twice and the reaction was the same.

C. Boyd asked if the concerns regarding this can be communicated back to the legislators in Raleigh and if that has begun. J. Glass commented that he believes this has been added to the legislative agenda.

S. Hensley agrees he would not like to approve this as it is written but he wonders if the intent was to lower the cost of workforce development.

Motion: C. Boyd made a Motion to recommend approving petition TA22-07 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. J. Sny seconded the motion.

C. Boyd commented that he is only doing this because we must.

J. Sny commented that we need to follow state law, but he would encourage the Town Board to explore all options available to them to at minimum make a public statement against this statute and highlight that the general assembly passed one of many laws that continue to strip away the authority that municipalities have long held. This loophole will be taken advantage of, and it will be at the detriment of the citizens of Huntersville.

F. Gammon commented that this Board is not opposed to affordable housing but this statue's effects on our ordinances is what is being opposed.

Vote: The motion passed (6-1) with S. Swanick opposed.

Other Business

Adjourn
Motion: S. Swanick made a Motion to Adjourn. T. Loomis seconded the motion.
Vote: The motion passed unanimously (7-0).

Approved this 24 day of JANUARY 2023.

Chairman or Vice Chairman

Board Secretary