Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, January 24, 2023.

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, T. Loomis, G. Baber & J. Henson

Approval of Minutes
Item 2A. Consider approval of the revised October 25, 2022, Regular Meeting Minutes
Motion: S. Hensley made a Motion to Approve the amended October 25, 2022, minutes. C. Boyd seconded the motion.

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

Public Comments
Kyle Zgowitz, 16215 Grafham Circle commented that he is for growth and betterment of the community. He has concerns related to Items 4A & 4B primarily of which are there are currently seven hotels off of exit 25, three of which are being proposed, this being one of them. The current existing hotels are not full to capacity based on what he sees driving past them on a daily basis. Currently other Marriott properties at this exit and the scale of this hotel is also of concern. All the other 3-4 story hotels are across Northcross Drive against the highway and not against existing residential. This property is also proposed between two existing one-story commercial buildings which does not seem to scale. This hotel was proposed as being a noise-barrier from the highway but since it is perpendicular to the highway and not parallel as noise-barriers typically are it appears it could cause noise to ricochet off of from the adjacent single-story buildings and recoil back into the residential community. This has the potential to negatively affect the property value of the homes right there and potentially the entire Birkdale community.

Nick O'Shaughnessy, 8217 Parkton Gate Drive clarified a previous public comment he made regarding J. Henson and his role on the Planning Board and in working with developers. He then commented on the updated Birkdale plans which previously had five components and has reduced to two components composed of larger office space of 175,000 square feet that is 115 feet tall on a piece of land estimated to be 2,500 square feet leaving it approximately 7 stories tall and occupies 100% of the footprint. The illustrations the applicant has shown are a misrepresentation because to achieve that square footage it is a big box with no setbacks, no balconies. The process appears to be manipulated as the application appears to be changing but the applicant is not being required to start over and go back to public hearing, which I am not in favor of it going back anyways. The office space appears to be the biggest disaster, the residents (in my opinion) would rather see the hotel because it would have less of an impact on traffic and could be better incorporated into the existing development.

Richard Johnson, 16210 Grafham Circle reiterated regarding the number of hotels in the area. There are at least seven hotels and by observation they are not at capacity. The existing hotels are also closer to the highway. The prior zoning for the proposed location did not allow hotels and the owners of the single-family homes did not purchase with the knowledge that a 3 or more story hotel could be adjacent

to them. Currently there is a 9-5 business on one side and a Mexican restaurant that generally closes by 9 p.m. A hotel will have traffic 24 hours a day and the neighborhood is against this. He disputes the findings of the appraisal and states that he feels this will have a negative affect on the home values. Birkdale golf course is already approved for additional changes including a hotel and then there is the traffic. The traffic is a nightmare on highway 73 and another hotel is going to create more traffic in addition to the already approved projects that are still scheduled to be developed such as Birkdale.

Action Agenda

Recusal: J. Henson requested to be recused for Items 4A & 4B due to conflict of interest.

Motion: F. Gammon made a motion to recuse J. Henson from Items 4A & 4B. J. Sny seconded the motion.

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

Item 4A: Consider a recommendation on SUP22-02 a request by Hitesh Patel on behalf of Hotel Ventures of Lake Norman, Inc for a Special Use Permit for a hotel at 16221 Northcross Drive PIN 00930115.

J. James, 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 reviewed the special use permit procedure and reasons for the special use permit application. Staff reviewed the findings supporting staff's recommendation that the application meets the requirements.

S. Swanick requested staff identify the conditions for hotels and confirm that the reasons the Planning Board is hearing this application is because of the additional two feet in height and because the proposed location is adjoining a residential neighborhood. Staff confirmed those are the factors for the special use permit. The application is before the Board for rezoning because previously the conditional zoning for this parcel indicated no hotels for use.

F. Gammon asked if the rear of the proposed structure will be similar in distance to the western property line as the existing neighboring building and if the applicant will be planting evergreen trees to the rear of the parking lot to help screen parking lot lights and activities. Staff confirmed the rear of the building will be a distance like the building to the north of the proposed structure. Staff has requested that the applicant plant evergreen trees to shield the activity and lights particularly in the wintertime and the applicant is agreeable to this and it has been added to the latest plans.

F. Gammon commented that while at the restaurant adjacent to this proposed location he noticed that during this time of the year you can see through the buffer to the existing residential neighborhood. He commented that the Planning department may want to review this and see if any additional buffer requirements should be recommended.

C. Boyd asked if the proposed height can be seen from the residential side and if it would be an eye-sore. Staff responded that early renderings indicated what would be visible and it is likely a portion of the top can be seen. The evergreen trees and distance would mitigate the majority of it.

S. Hensley asked if a by right use allows for a larger building to be placed on this parcel. Under the current zoning if a developer proposed a shopfront building it could be taller and have a larger footprint as less buffer would be required.

Applicant Susanne Todd, 1065 E Morehead Street Charlotte NC provided a presentation to the Board.

C. Boyd asked how the occupancy levels were evaluated and how the business model works with the existing hotels. Hitesh Patel, 3836 Honors Way Augusta GA commented that many corporate travelers rent 3-4 rooms but arrive in 1 vehicle so occupancy cannot be judged from looking at the parking lot. Marriott also completes a feasibility study prior to approving a franchise license and they have awarded the franchise license for this location.

F. Gammon asked if the retaining wall at the rear of the property is raised above the creek level, clarified the type of evergreens to planted, and expressed concern about the parking the grade for parking at the rear of the parking lot. Jay Henson, 121 Gilead Road stated the grading plan has been submitted and if he recalls correctly, it is approximately 8-10 feet above the creek level. Staff commented that there will also be a shrub requirement along that buffer.

F. Gammon commented that the dumpster location should be considered for the time of day that the truck picks up with the sound of the truck backing up and dropping the dumpster.

Motion: S. Hensley made a motion to recommend approval of SUP22-02, Northcross Hotel. The Planning board found that; 1) The request meets all required conditions and specifications. 2) It is reasonable and does not pose an injurious effect on adjoining properties and 3) finds that the character of the neighborhood or the health, safety and general welfare of the community will be minimized. This decision is supported by the following findings: 1)the project will be required to meet all applicable fire and safety codes prior to issuance of a CO (certificate of occupancy), 2) based upon the impact analysis completed by hotel and club appraisal there is no evidence the project will substantially injure adjoining property values and 3) the project is consistent with policies LU-5.1, LU-6.2, LU7.1, EV-1.3 of the Huntersville 2040 Community Plan. F. Gammon seconded the motion.

F. Gammon offered an amendment to the motion to state, "The decision is supported by the Town of Huntersville Zoning Ordinance stated in part three staff findings of the staff report as follows, 1)the request meets the Zoning Ordinance criteria of article 9.45, 2) the request meets the Zoning Ordinance criteria of article 11.4.10, e, 2. S. Hensley and F. Gammon accepted the amendment.

F. Gammon offered an amendment to the motion to state, "This recommendation for approval is contingent upon the approval of rezoning R22-06 Northcross hotel by the Town Board." S. Hensley and F. Gammon accepted the amendment.

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

Item 4B: Consider a recommendation on petition R22-06 a request by Hitesh Patel on behalf of Hotel Ventures of Lake Norman, Inc. to rezone approximately 2.66 acres at 16221 Northcross Drive from Corporate Business Conditional District (CB-CD) to Corporate Business Conditional District (CB-CD) to permit a 4-story 109 room hotel.

J. James, Principal Planner 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 1994 conditional zoning for this parcel which did not permit hotels as a use. Staff stated that the zoning district from 1994 no longer exists under the current ordinances and staff recommends approval of the rezoning request with the modification to allow for the two additional feet in height.

J. Sny asked why the applicant was requesting the additional height. The applicant responded that the current design concepts for air filtration require additional outside air to be brought in which require higher ceiling heights. Staff responded that under a special use permit a request can be submitted for up to seven stories so the applicant is actually asking for much less than what is allowed at the request for two additional feet.

Motion: T. Loomis made a Motion to recommend approval of R22-06. The Planning Board finds that the request is consistent with the Huntersville 2040 Community Policies, LU-5.1, LU-6.2, LU-7.1, EV-1.3. The proposed development is consistent with the surrounding developments character by varying the massing of buildings to reduce perceived scale and volume and further provides additional buffering then required by code with the adjacent single-family residential zoning to the west. It is reasonable and in the public interest to approve the rezoning plan because the rezoning is consistent with the envisioned use and development pattern set forth in the 2040 Community Plan. S. Swanick seconded the motion.

F. Gammon offered the amendment, "This recommendation for approval is contingent upon Huntersville Town Board approval of SUP 22-02." T. Loomis and S. Swanick accepted the amendment.

S. Hensley commented that he personally would not have supported this if it had not been for the natural buffer being greater than 80 feet which is important to note that the Planning Board is paying attention to these details.

F. Gammon commented that he also may not have supported this but he has seen the applicant make mitigations to address concerns of the nearby residents and because the buffer proposed at the adjacent property line appears sufficient to keep the lights out of the residents houses he will support this.

S. Swanick commented on the order of the Special Use permit prior to the Rezoning continuing to be out of order in terms of importance to the Planning Board.

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

Reinstate Motion: S. Swanick made a motion to reinstate J. Henson. C. Boyd seconded the motion.

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

Item 4C: Consider recommendation on petition #TA22-13, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to amend Article 3.3.1(a) Manufactured Home Overlay District to update skirting requirements to comply with G.S. Chapter 160D-910 and to amend Article 11.6.1(a) Zoning Compliance to clarify application requirements and to amend Article

9.9 Commercial Communication Tower to comply with G.S. Chapter 160D-937 on collocating wireless facilities on Town utility poles.

K. Mielenz, Planner I entered her staff report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff reviewed the proposed amendments.

The Planning Board reviewed the example provided and the discussion on the topic by the HOAB.

Motion: C. Boyd made a Motion to recommend approval of the petition TA22-13 to amend Article 3.3.1(a), Article 11.6.1(a), and Article 9.9. The Planning Board finds the amendment consistent with policies LU-10, LU-10.1, LU-11.1 of the Huntersville 2040 Community Plan as the amendment is necessary to comply with state legislature. It is reasonable in the public's interest to amend the zoning ordinance because it is necessary to comply with state legislature. J. Wright seconded the motion.

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

Item 4D: Consider a recommendation on Petition #TA22-12, a request by the Huntersville Town Board to amend Article 4 of the Zoning Ordinance clarifying first floor residential and commercial area requirements for Shopfront and Workplace mixed-use buildings and associated definition amendment.

J. Simoneau, Planning Director 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 proposed amendment, staff's recommendation, and the recommendation of the HOAB.

F. Gammon provided an overview of the HOAB discussions and the HOAB recommendation.

Motion: F. Gammon made a Motion to recommend approval of petition TA22-12 with the following change (from what was presented by staff). Delete first floor diagram wording in section two and three and replace with "Commercial Use or Use up to 40% residential use first floor area." The recommendation is based on the amendment being consistent with Huntersville 2040 Community Plan policies LU-6, Lu-7, LU-10, EV-1, EV-2, DT-1, DT-10. It is reasonable and in the public interest to amend the zoning ordinance because the amendment clarifies commercial use and residential first floor area requirements. Further, stating commercial use first and requiring a minimum of 60% commercial space be allocated to commercial use emphasizes commercial usage of the first-floor area in mixed use buildings. S. Swanick seconded for discussion.

S. Swanick commented that in his opinion the goal of this text amendment is to have clarity in understanding what the Town Board motion will directly translate to in leasable commercial square footage. The HOAB recommendation no longer seems to be focused on clarity and appears to be opening a larger issue which may need more time and research to fully address if it should be addressed at all.

G. Baber commented that the clarity does not seem to be accomplished when the commercial mechanical could make up 90% of the commercial space. Staff responded that it is okay how the commercial space is broken down because each business type may dictate different needs. The Board

wanted clarity where the commercial and residential uses had shared space and to ensure that does not count towards commercial space.

The Planning Board had discussion over the approved NorthState project and resulting product that led to the request for the amendment.

J. Henson commented that he agrees that the request was for clarification so he supports staffs recommendation and exhibit.

F. Gammon commented that the applicant has the option to apply for conditional rezoning if they do not want the percentage minimum. He does not want to see this item stalled any longer. It is important to him that the wording state "commercial use" first since that is the priority. Staff responded that conditional rezoning is an option. It is a four-and-a-half-month process that opens the applicant up to more unknowns.

C. Boyd recommended an amendment to the motion to adjust 40% to 50%. F. Gammon and S. Swanick accepted the amendment.

S. Hensley commented that he will support the amended motion. He does not want to see over-regulation and he feels like this could be headed in that direction. The market will dictate the amount of commercial space that can be supported. Generally commercial lease will draw more revenue than residential lease so allowing the applicant to select based on the needs of the market and allowing the developer who is investing their time, energy, resources, and finances to succeed is something to keep in mind.

C. Boyd commented he is in favor of the motion and that ultimately a specified square footage versus percentage and the space not including the shared use with mechanical and storage appears to be the goal of the Town Board for clarity.

Amended Motion Vote: The amended motion passed (8-1) with G. Baber opposed.

Item 4E: Discuss 2023 Downtown Master Plan https://www.letsplanhuntersville.org/downtown-plan-project-details

J. Henson disclosed that his office is located at 121 Gilead Road and his firm recently completed a rezoning for 202-208 Gilead Road. Both of those are within the Town Center zoning which is within the Downtown area.

S. Swanick disclosed he owns three properties in the study area, his personal residence, future residence and the commercial space where Crafty Beer Guys is located and the adjacent building.

J. Sny asked the Board members if they felt that there was any conflict. No conflict was found.

S. Swanick as Ex-Officio member to the Downtown Plan for the Planning Board provided a summary of events of the Downtown Steering Committee meetings and results. He stated that the Downtown Plan was voted on unanimously as now presented to the Planning Board. He shared the organizing principles of the Downtown Plan, East-West connector, proposed stormwater retention ponds, parking concerns, railroad crossings, NCDOT Gilead Road widening, maximum building height of 3-4 stories. Staff

recommended that Board members review the Executive Summary to identify the recommendations of the Downtown Plan Steering Committee. Staff stated that a request is submitted to the Metropolitan Planning Organization (MPO) that projects traffic for the region to review the proposed road structures and provide input for the Town to return to discussion with NCDOT regarding alternative options to Gilead Road widening.

J. Sny asked that Board members state areas of concern or further discussion from each member to be addressed at a Special Meeting.

The Board members expressed a desire to give further attention or discussion to the proposed building height and rate at feathering out to existing residential, what the proposed concept would look like in 3D modeling, pedestrian friendly, Gilead Road widening, East-West connector, Guidelines to clear actionable specifics so that the expectations are clearly communicated. (Example 10-10-10 from 2040 Plan and the 3-4 stories, water retention ponds.) Roads, parking to control traffic and where that should be located, pedestrian and bike friendly lanes and crossings, possible emphasis on greenway, overall plan not being ambitious enough, more density/intensity, East-West connector, reconsider the 3-4 story building height cap, bike/walk priority, CMS partner timetable and possible Town partnership for purchase of land to encourage accelerating plan, Town partnerships to encourage young, up and coming entrepreneurs and companies, revision to apartment categories to small, medium, and large, caution for too many regulations, entrance to Downtown at North/South roundabouts and Gilead gateway/structure with appropriate signage/recognition to identify area and explain slow down, parking solutions for businesses and to accommodate 'gathering' principle, Gilead Road cross-section opportunity (example of East Road, Charlotte for density/blending), East-West connector to displace traffic, strong streetscape on Gilead road, implementation and Town's investment in public/private plan to really make this a reality.

Motion: F. Gammon made a Motion to continue discussion of Item 4E, Downtown Master Plan at a Special Meeting to be held on February 1, 2023 at 6 p.m. J. Sny seconded the motion.

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

Item 4F: Planning Board 2023 Regular Meeting Schedule

Motion: S. Hensley made a Motion to approve the schedule as presented. J. Sny seconded the motion.

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

Other Business
No 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 28 day of FEBRUARY 2023.

Chairman or Vice Chairman

Board Secretary