Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, February 28, 2023.

Call to Order/Roll Call
Chairman Sny called the meeting to order at 6:30 pm.
Present: J. Sny, F. Gammon, S. Swanick, C. Boyd, J. Wright, T. Loomis, G. Baber & J. Henson
Absent: S. Hensley

Approval of Minutes
Item 2A. Consider approval of the January 24, 2023, Regular Meeting Minutes
Motion: J. Wright made a Motion to Approve the January 24, 2023, minutes. T. Loomis seconded the motion.

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

Item 2B. Consider approval of the February 1, 2023, Special Meeting Minutes
Motion: J. Wright made a Motion to Approve the January 24, 2023, minutes. T. Loomis seconded the motion.

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

Public Comments
Pete Romaniello, 15821 Trenton Place
Errol Genois, 8537 Camberly Road
Suzanne Villar, 17130 Bridgeton Lane
Nick O'Shaughnessy, 8217 Parkton Gate Drive
Mary Ann Turetsky, 16977 Bridgeton Lane
Nadine Wynn, 8127 Strandhill Road
Gatewood Campbell, 104 Interlaken Place
Kim Zarsadias, 17303 Inglewood Lane
Brian Rice, 17232 Bridgetown Lane
Dawn Snow, 8132 Evanston Falls Road
David Schurr, 17142 Pennington Drive

Action Agenda

Agenda Change

Motion: J. Sny made a motion to hear item 4A as item 4E, item 4C as item 4F, item 4D as item 4C, item 4E as item 4D, and item 4F as item 4A. S. Swanick seconded the motion.

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

Item 4A: Consider a recommendation for the 2022 Downtown Master Plan

J. Simoneau, Planning Director stated he had the information as previously presented for the Downtown Plan and would be available to answer any questions.

Motion: F. Gammon made a motion to recommend approval of the Downtown Master Plan and opens the floor for amendments for concerns that can be added.

S. Swanick requested that additional statement, "The Planning Board further recommends that the below sections as identified in the presentation as boxed in purple, be removed from the Plan. This update is made in response to a February 23, 2023 traffic analysis memorandum authored by Shook Kelly and prepared by Gannet Fleming Consultants where it was concluded that when preparing expected 2024 traffic to current connections, "It is evident that ADT (average daily traffic) compared to the 2020 volume is reduced, delay is reduced, and LOS (level of service) at intersections 1-3 along Huntersville-Concord Road between NC 115 and Main Street is improved proportionately with the addition of the East-West Connector street for approach 2 and 3. See attachments A and B." As currently written the Master Plan does not allow approach 2 and removal of these contingencies improves the likelihood that the East-West Connector can help relieve traffic and prevent the catastrophic widening of Gilead Road."

G. Baber seconded the motion.

S. Swanick confirmed his amendment is a further recommendation as an item of concern with the Town Board making final decision to do this action if they choose.

F. Gammon and G. Baber accepted the amendment.

Staff confirmed that the red-stricken items are from Lee Hallman, maker of the motion for Downtown Steering Committee and based off the discussion surrounding this item to provide clarity. Those red stricken items would be part of staff's recommendation.

F. Gammon commented that this is a plan, not an ordinance. It will guide future developers, staff, Planning Board and Town Board as they make determinations as how the Town will develop. It will change, it is a living document. It is a valid concern about Gilead Road. The East-West connector needs to be considered, he is not opposed to it, he is in support of the Downtown Plan Steering Committee recommendations. He highlighted the "note" regarding the East-West connector within the Downtown Master Plan, Executive Summary, Section 1.A.1.b: Downtown and Adjacent Neighborhood Streets.

G. Baber commented that the same "note" that is referenced includes a comment on segment A-C which are being clarified with the proposed revisions.

S. Swanick commented that he feels that the removal of those contingencies would make it more likely that the road is built and makes a difference in traffic so there is not a 6-lane Gilead Road.

J. Sny commented that the proposed East-West connector without segment A would improve the level of service by one letter and incrementally improve traffic counts. While he thinks the road should happen, he is glad it is not a condition for approval of the plan because he would not be able to support that. This would be highlighted for the Town Board to take notice of as an item of importance. He thanked the Downtown Plan Steering Committee for their hard work and unanimous approval of the plan before them.

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

Staff commented that the next step for the Downtown Plan will be to call the public hearing at the Town Board meeting.

Recusal: J. Henson requested to be recused for Item 4B as he is a consultant to the applicant.

Motion: J. Sny made a motion to recuse J. Henson from Item 4B. T. Loomis seconded the motion.

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

Item 4B: 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 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 B and incorporated herein by reference. Staff reviewed the request from the Town Board for the rezoning request to return to the Planning Board due to there being a substantial change to the petition. This petition must be deferred for 30 days and will return to the Town Board on March 20, 2023.

The substantial change was the elimination of the hotel and multi-use building and one of the parking garages. The request today is for the 150,000 square feet of office space and 25,000 square feet of commercial space and associated parking deck. The previous Planning Board recommendation for this was a maximum of 115 feet tall building which the applicant has lowered to 110 feet. The previously heard text amendment and special use permit applications have been withdrawn. Staff thinks that this is a good project. Staff has switched to a position of not in support due to manner of process and a text amendment not being submitted.

F. Gammon asked what the maximum height of the buildings will be at Birkdale Place and why the request is for five years of vesting period. Staff confirmed their special use permit allows them to go to 92 feet with the most recent building permit submitted for 91 feet. Staff stated the request for extending the vesting period is made by the applicant and not uncommon. Under state law the minimum is two years, and an applicant is allowed to request up to five years.

S. Swanick asked staff if the applicant was advised of the importance of the special use permit (SUP). Staff confirmed the applicant was advised and through the process with the SUP being quasijudicial it limited the applicant's ability to interact with Town Board members and the applicant which became a point of contention for both parties. The applicant chose to withdraw the SUP and the text amendment. Staff did not feel that was the correct path as reflected by the change in our position with the comment that with a text amendment and SUP application staff would support the rezoning.

C. Boyd confirmed this proposal does not reduce commercial space. Staff confirmed it is very similar to the existing commercial space.

The applicants S. Irvin, 19726 Zion Avenue, M. Lant, 5142 Enniskillen Ct, Suwanee, GA, and K. Rose, 630 Davidson-Gateway, Davidson, NC presented.

J. Sny asked the applicant why they were requesting a five-year vesting period. The applicant responded that advertising cannot begin until there is approval to build the project, the financing is secured, plans are drawn and approved, then the space is marketed and must achieve 50% capacity prior to financing approval to break ground.

J. Sny asked the applicant what the order of construction would be for the items proposed. The applicant stated they would build the parking deck first so that comes online, and the office building second. The staging would be across the street. When building in a dense area such as this the items are delivered to be placed in the building and the storage would not be a large area.

C. Boyd asked if the building presented is what will be built. Staff responded that a speculative building for office is what is most commonly submitted at this point in the process and more flexibility is allowed since the tenants are not yet identified. The applicant responded that they have heard the concerns and understand that brick would be more the desired finish.

F. Gammon asked the applicant if they would commit to coming back to the residents to allow some input into the final design, options, ideas as they have demonstrated as neighbors they live there and maybe they would appreciate having some input. The applicant responded that as the design continues of the building upon approval they are happy to have a public meeting to show what they are proposing and to get feedback.

S. Swanick asked if a hotel is still in the long-term plans. The applicant stated that an alternate tenant is secured for the former Pier 1 location and that was the only viable space for a hotel so at this time there are no plans for a hotel. If someone came and really wanted to find a way to add a hotel the developer would be open to it as it is a good mix for the development.

Motion: F. Gammon made a Motion to recommend approval of R22-01 Birkdale Village. The Planning Board has considered and found the rezoning is consistent with Huntersville Zoning Ordinance article 11.4.7 d and 11.4.7 e. Further the petitioner is consistent with the Huntersville 2040 Community Plan and supported by policies LU 2.1, LU 6.1, LU 7.1, LU 8.1, LU 8.2, and EV 1.2. The Planning Board also recommends approval of the requested modification to the Zoning Ordinance to allow increased building heights for the proposed multi-use building to a maximum height of 110 feet and an accessory parking deck to a maximum height of 70 feet. This recommendation for approval is based upon the Huntersville 2040 Community Plan policy 8.1. This policy allows consideration for incentives to allow applicants to demonstrate excellence in design and exceptional public benefit for projects in key areas. Incentives that include modification of height limits. Birkdale Village is certainly a Huntersville key area. The Planning Board further recommends approval of the applicants request for Zoning Ordinance modification to increase the vesting period from 2 to 5 years. The recommendation for approval is contingent upon all outstanding staff redline comments being addressed. It is reasonable and in 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 the original design has been reduced drastically down to the needed parking garage which the applicant stated would be built first and the office building. In thinking back to the recent Town Board retreat, day two when Ryan McDaniels, Lake Norman Regional Economic Development, one of the key items he mentioned is that there is a lack of class A office space in Lake Norman. Mr. McDaniels point was that while many are not going back into the office, where they are not wanting to go back to are downtown major urban centers. They want to be in places like Lake Norman. This location is within 2 miles of Highway 77 which is a high-density area. All those intersections along Highway 73 on either side of Highway 77 are high-density areas. Across the street, 90+ story building is being built. This area is fast becoming a major commercial center for the town of Huntersville. It will grow up a little bit as with this proposal. He stated that he believes the finished product will be beneficial to everybody in town including the Birkdale, Huntersville and Cornelius residents that are present this evening and he would like those residents to have some input into the final design.

S. Swanick commented that you can arrive with one expectation and through the course of the presentation have a 180 degree change. He commented that he takes staff's recommendations seriously and when they were opposed it caught his attention. He stated that he understood why staff could not support the project and how the quasijudicial structure imposed restrictions that led to the applicant having to make difficult choices. The proposed project is a reduction of what was previously approved is scope and height so he will support it and go against staff recommendation for these reasons.

T. Loomis commented that she opposed the project the first time and she remains opposed. The residents of Huntersville have stated over and over that they like 3-4 story buildings, and this height goes against what the residents are voicing they want. She likes the office concept but does not like the height which is not in the spirit of the ordinance.

C. Boyd commented that he is divided. He agrees that office space in this location looks ideal but he hates the height and thinks it will look out of place. He respects the developers rights and he loves going to Birkdale but he hates sitting on highway 73. He feels like building and development are put before infrastructure all the time and he doesn't know when someone is going to put a stop to that but it creates difficult choices.

J. Sny commented that he was asked at the most recent pre-development meeting how he could be for something and vote against it. The current office space that is vacant can be considered sterile and boring, top talent have expectations in this economy and this employment rate then they will go to someone who is providing a modern work environment. South End, for example, has some of these class A type buildings that are amazing, draws top talent, and gets staff in office versus just remote. He stated that he sees the need for it and does not have a problem with the location. When this project was proposed previously there was the text amendment and rezoning that were approved, and the special use permit was not approved based on the harmony factor and making the case of financial harm. He stated that his struggle with the proposed project now is that with the project reduced to one building, the harmony is further reduced. He loves the product and agrees with the need but how we are arriving at this proposal not in compliance with the process and he does not support that. For that reason he will not support this.

F. Gammon commented that he looks at how the entire area is being developed and there will be a building of similar height across the street so it is not a lone building being proposed. J. Sny agreed that is not lost on him but that building went through the correct process.

G. Baber stated he is in a similar position as J. Sny and wanted the confirmation that the proposed motion is legal. J. Glass confirmed that a conditional rezoning is acceptable as a mechanism to recommend adjusting the allowed height. G. Baber commented that the methodology then is different then previously proposed but acceptable to legal so that leaves him with only the issue of height. Personally, he was not present for the first proposal and he is wrestling with the height from 48 feet to 110 feet. J. Sny commented on his reasoning with the height during the first proposal and that a lot has changed in the request since that time.

F. Gammon commented that he believes the compromise proposed is reasonable and he is not looking for more compromise from the applicant.

Vote: The motion failed (2-5) with C. Boyd, T. Loomis, G. Baber, J. Sny & J. Wright opposed.

Reinstate Motion: J. Sny made a motion to reinstate J. Henson. G. Baber seconded the motion.

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

Item 4C: Consider recommendation on Petition #R22-05, Oak Grove Hill - Addition, a request by Carver Bowman, LLC to rezone +/- 28.87-acres generally located north of Mt. Holly-Huntersville Road, east of Beatties-Ford Road and south of Pembroke Road from existing Neighborhood Residential - Conditional District (existing Oak Grove Hill CD-Rezoning) and Rural to Neighborhood Residential - Conditional District (REVISED Oak Grove HIll CD-Rezoning) for a 51-lot subdivision; (Parcel #s 01526443, 01526504, 0152606, 01526460, 015254432, 01526456, 01526432, 01526450, 01526455, 01526428, 01526429 & 015264431).

D. Peete, Principal Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff reviewed the existing approved rezoning, the request to add acreage, and how this relates to rezoning request R23-04 to remove some of the previously approved acreage. Staff shared that within the proposed urban open space a Charlotte treasure tree has been identified. Staff supports the proposed block length modification request due to the gas line and creek crossings and to enable the saving of the heritage tree.

F. Gammon asked what the phases of development would be for this addition. N. Bowman, 13815 Cinnabar Place commented that phase one they hope to complete this summer. Phase two of this addition will require 7-8 months for engineering review. At that time the second phase will be built all at once with the road connections installed as soon as possible.

Motion: G. Baber made an Amended Motion to recommend approval of R22-05 Oak Grove Hill – Addition as it is consistent with policies LU-2, LU-2.1, LU2.2, LU3.1, LU7.1, LU10.2, LU10.4, LU12.3, EOS1.1, EOS4.1, EOS 10 and T3.2 of the 2040 Community Plan. It is also consistent with the objectives of both the Beatties Ford Road and Mt. Holly Huntersville Road small area plan and the Beatties Ford Road corridor plan. The Planning Board also makes the following recommendations for the plans completeness. 1. Approval of the block length modification for block 16, Carver Avenue for 958 linear feet and block 19, Cherry Bark Oak Lane for 994 linear feet. 2. A 10-foot wide multi-use path should be provided along Mt. Holly Huntersville Road as called for in the most recent Huntersville Bike Master Plan. 3. Add a note of willingness to annex the entire phase three into the town of Huntersville. 4. Rezoning notes from sheet SP-8 of the original plan must be added to plan set. 5. If this rezoning is approved, all notes and data will need to be coordinated with the petition R23-04 which would remove the 6.89 acres from the original rezoning to permit this addition. 6. Insure the maintenance and access easements for the BMPs do not encroach into the swim buffers. 7. All outstanding redline comments from staff. It is reasonable and in the public interest to approve the conditional district rezoning plan because it is consistent with the plans for the surrounding area and meets the applicable provisions of the zoning ordinance. F. Gammon seconded the amended motion.

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

Item 4D: Consider recommendation on Petition #R23-04, Oak Grove Hill - REVISION, a request by Carver Bowman, LLC to remove +/- 6.89-acres generally located north of Mt. Holly-Huntersville Road, east of Beatties-Ford Road and south of Pembroke Road from the existing Oak Grove Hill Neighborhood Residential - Conditional District. The removal of the 6.89-acres is contingent upon approval of R22-05, a proposed revision to Oak Grove HIll CD-Rezoning for an overall 110-lot subdivision (see R22-05); (Parcel #s 015254432 & 01526450).

D. Peete, 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 proposed request to revise the previously approved rezoning to remove the acreage as indicated contingent on the approval of R22-05.

Motion: F. Gammon made a Motion to recommend approval of R23-04 Oak Grove Hill Revision to remove 6.89 acres from Oak Grove Hill neighborhood residential conditional district zoning NR (CD). This recommendation for approval is conditional upon final approval of R22-05 Oak Grove Hill Addition. The approval of R22-05 would facilitate the removal of the 6.89 acres as it would not impact the original Oak Grove Hills consistency with adopted policies as outlined in R18-10a. It is reasonable and in the public interest to approve the conditional district rezoning plan revision because it is consistent with the plans referenced above and the applicable provisions of the zoning ordinance can be adequately addressed. J. Henson seconded the motion.

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

Item 4E: Recommendation on Petition #TA22-17, a request by the Huntersville Planning Department to amend Section 7.5.3 of the Huntersville Zoning Ordinance increasing the buffer for major residential subdivisions from 20' to 40' when the proposed subdivision is two times greater than the existing residential subdivision.

J. Simoneau, Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit E and incorporated herein by reference. Staff reviewed the proposed amendment and updated option 2 as recommended by staff where the buffer does not increase when adjacent to vacant land.

Motion: T. Loomis made a Motion to Approve TA22-17, Staff option 2 based on the amendment being consistent with policy LU-11 and DT-2 of the 2040 Huntersville Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it helps protect the unique character of the existing housing stock. C. Boyd seconded the motion.

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

Item 4F: Recommendation on Petition #TA22-16 Multi-Family Use One Building One Lot, a request by the Huntersville Planning Department to amend Zoning Ordinance Articles 3.2 General Districts and 9 Conditions for Certain Uses to establish buffer standards for a multi-family home use in one building, on one lot.

J. Simoneau, Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit F and incorporated herein by reference. Staff reviewed the proposed amendment.

J. Henson asked if acreage versus density should be considered. Staff confirmed that in their experience density does relate to acreage and this approach is the most simplified and applicable.

Motion: C. Boyd made a Motion to Approve TA22-16 based on consistency with policies LU7.2, LU9, and LU11.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because the amendment will help to protect the privacy of existing residential development from one building, one lot multi-family in-fill development. T. Loomis seconded the motion.

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

Other Business
No other business.

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

Approved this 28 day of MARCH 2023.

____
Chairman or Vice Chairman

____
Board Secretary