

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, April 25, 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, G. Baber, S. Hensley & J. Henson

Absent: T. Loomis

Approval of Minutes

Item 2A. Consider approval of the March 28, 2023, Regular Meeting Minutes

Motion: G. Baber made a Motion to Approve the amended March 28, 2023, minutes. J. Wright seconded the motion.

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

Public Comments

No comments

Action Agenda

Motion: J. Sny made a Motion to Amend the agenda and hear Item 4C as Item 4A. J. Henson seconded the motion.

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

Item 4C: Petition #SUP23-01 is a request by hep Petra Development LLC on behalf of the City of Charlotte for a Special Use Permit for a major solar energy facility at 5824 Jim Kidd Road Huntersville, NC 28078 PIN 01305102. Major solar energy facilities are permitted in the Rural (R) zoning district with the issuance of a special use permit and subject to the conditions outlined in Article 9.54.

L. Speight, Senior Planner entered her 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 general criteria, specific criteria, and applicant request. The applicant has stated they will be presenting evidence to address general criteria two, "the proposed special use will not substantially injure the value of abutting property or it constitutes a public necessity."

F. Gammon asked if the proposed road area would be counted as impervious. Staff responded that a gravel drive that is continuously used and compacted is counted as impervious however on case-by-case basis gravel that is not compacted, such as in landscaping beds, may not be counted as impervious. Staff's understanding is that these roads will have minimal use and therefore not be compacted. F. Gammon requested that staff confirm with Charlotte Stormwater that the road would not be counted as impervious.

G. Baber asked if the separately owned adjacent lot uses the same access road. Staff confirmed they have a separate easement access.

F. Gammon asked staff to confirm if the applicant is leasing only the 10.7 acres for the project from Mecklenburg County of the entire 194 +/- acre parcel. Staff stated the applicant could best respond to this question.

S. Swanick asked staff to confirm the status of the applicant meeting the criteria as outlined. Staff confirmed that Planning Staff finds that the applicant has met four of the five criteria and will be presenting evidence regarding the outstanding item.

S. Swanick asked if staff can render an opinion on the evidence presented this evening and if it meets the criteria. Staff responded that an opinion from staff can be given.

The applicant, Tim Holder, 2978 Lakeshore Road South, Denver, North Carolina presented that Charlotte Water has a mandate for carbon neutral emissions and as a part of that the opportunity was Energy United was willing to take the energy, from this project, and provide the city with the renewable attributes to help them satisfy their carbon neutral emission mandate. He then confirmed that there will be no batteries, no generators, no moving parts associated with this solar farm. This is a fixed-tilt system, nothing moves and there are no buildings on structure. There is no staff on-site full-time. There are two routine annual visits per year for operations and maintenance inspections conducted by two people in a single passenger vehicle. Remote monitoring is conducted at their headquarters in Huntersville. The applicant confirmed that they are leasing the 10.7 acres only.

F. Gammon asked the applicant how the grass will be maintained, if there are any plans to expand this project in the future, what is the proposed lifespan of the project, and how will the fencing be harmonious with the adjacent area uses. The applicant confirmed that the grass will be mowed and current discussion is with the City of Charlotte to maintain the grass. This project has no plans for expansion. It currently maximizes the amount of energy that Energy United is willing to take and meets the mandate set forth by Charlotte Water. The investment criteria for the project is built with a 35-year life span. That includes a lease on the land and off take of the energy for the same span of time. There is a decommissioning plan to take the project back to the original state of the land. The land is currently a loblolly tree farm planted by the City of Charlotte that is intended for harvest, replanting, and recycling. All solar projects must be approved by NC Fish and Wildlife in order to receive financing. They have a fencing recommendation that allows small animals, frogs, rabbits, etc. to pass through whereas big game can not pass through the facility. The applicant confirmed they must meet this requirement for the project to be financed and it will be confirmed by NC Fish and Wildlife.

F. Gammon commented on the value of having applicants present site plans with greater detail for consideration. Though not a requirement at this time he would recommend the Planning Staff consider this for the future. The applicant responded that they have an engineered layout of the site that they can provide and from their position, the expense of a site plan prior to a special use permit being granted would be burdensome.

F. Gammon recommended that the applicant address these questions in their presentation to the Town Board since the Town Board will not have this information prior to their hearing the case.

S. Swanick asked the applicant to explain their position on public necessity. The applicant responded that North Carolina has a standard to expect utilities to meet renewable expectations and so the NC Utility Commission created a Certificate of Public Necessity (CPCN). For any project to move forward in North Carolina this certificate must be issued. This project has gone through that process to be issued the certificate and there is no way for the project to be built without the certificate being issued, therefore, to the applicant this would demonstrate public necessity.

F. Gammon asked if there will be a humming noise generated from the facility. The applicant responded that inverter technology which has changed a lot in the last 15 years. Current technology will still produce a humming noise as the sun light on the panels increase that is discernable from 5 feet away. This is not at the same level as what was discernable 5 – 15 years ago using previous technology.

S. Hensley asked staff if the public necessity criteria is met by what the applicant is describing. Staff confirmed that a mandated state process providing a certificate confirming that a project is a public necessity would not be the same as an applicant simply stating something is a public necessity. Additionally, any future applicants will still need to meet the balance of the special use permit criteria as well.

S. Hensley asked staff if the process should be reviewed so that a project qualifying as a public necessity is not allowed to move forward if it is injuring an abutting property. Staff responded that the criteria is adopted by local municipality and have been accepted by the courts. The applicant asked to speak and shared that this is likely the only solar facility that Huntersville will see. The market does not lend itself to financially supporting additional projects in this region or state.

C. Boyd commented that this is also a relatively small solar project. The applicant confirmed that is correct typically they work on 450–500-acre projects.

J. Snyder asked the applicant how they were demonstrating that the project met the criteria to not materially endangering the public health or safety. The applicant responded that this would be treated no differently than an electric substation. There is an 8-foot fence surrounding it and high voltage signs all the way around on the fence. An electric substation in town is 12,000 volts and this solar farm will generate 1,000 volts. Additionally, there is a camera on the shared Charlotte Water entrance area that Charlotte Water monitors. The applicant stated that safety is their number one priority across all of their sites in Europe, Japan, Canada and the U.S.

F. Gammon commented that this is the first special use permit for a major solar facility that has been presented in Huntersville. He can support moving this forward if the Planning Department and applicant can provide as much information as possible to the Town Board via the staff report and agenda packet to assist them in making their decision.

Motion: F. Gammon made a Motion to recommend Approval of SUP 23-01, McDowell Creek WWTP Solar, we the Planning Board find that the request meets all required conditions and specifications, is reasonable and does not pose an injurious effect on adjoining properties and 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: the SUP is compliant with Huntersville 2040 Community

Plan policies, LU-1, PS7.2, EOS-3, EOS-5, EOS-6, EOS-7; and complies with all applicable articles of the Huntersville Zoning Ordinance. S. Swanick seconded the motion and made the recommendation to include, the findings of fact include that the plan itself is contingent on being issued a CPCN by the state which meets the public necessity requirement of the ordinance. F. Gammon accepted the amendment.

Staff commented that the applicant has identified that "Danger High Voltage" signs will be affixed to the fencing so the Board may want to amend their motion regarding not causing harm or danger. F. Gammon and S. Swanick accepted the amendment to read, "this application must address all redline comments with staff."

Amended Motion: F. Gammon made an Amended Motion to recommend Approval of SUP 23-01, McDowell Creek WWTP Solar, we the Planning Board find that the request meets all required conditions and specifications, is reasonable and does not pose an injurious effect on adjoining properties and 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: the SUP is compliant with Huntersville 2040 Community Plan policies, LU-1, PS7.2, EOS-3, EOS-5, EOS-6, EOS-7; complies with all applicable articles of the Huntersville Zoning Ordinance; and the plan itself is contingent on being issued a CPCN by the state which meets the public necessity requirement of the ordinance. The applicant must address all redline comments with staff. S. Swanick seconded the amended motion.

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

Item 4A: Petition #TA22-11, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to amend Article 10 Signs to increase flexibility of sign regulations and codify current practices.

L. Speight, Senior Planner entered her staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the request and identified the proposed changes. Staff shared the comments and feedback that been received by local area businesses and the challenges that they face under the current ordinances.

S. Hensley asked why the proposed amendment to Article 10.10.20 was limited to sporting events versus any temporary one-day events. Staff responded that they may be open to this but many of these types of events are addressed in currently existing categories such as charitable events.

Motion: S. Hensley made a Motion to recommend Approval of TA22-11 based on consistency with policy LU-8 of the Huntersville Community 2040 Plan, with the exception of section 9. It is reasonable and in the public interest to amend the zoning ordinance because it will clarify the current language and increase flexibility of the sign regulations while still meeting the intent of the sign being for identification purposes and not advertisement. C. Boyd seconded the motion.

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

Item 4B: Petition #TA23-02, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to amend Article 14.2.3 of the Zoning Ordinance, TIA reference no longer applicable as a result of the current administrative review of Sketch Plans; Section 6.300 of the Subdivision Ordinance for a TIA reference no longer applicable; Articles 11.8 and 14.4.4 of the Zoning

Ordinance regarding the withdrawal of amendment petitions; Section 6.320 of the Subdivision Ordinance, Sketch Plan Community Meeting notification requirements; Article 11.4.3 of the Zoning Ordinance regarding Conditional Zoning Community Meeting notification requirements.

L. Speight, Senior Planner 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 request and identified the proposed changes.

S. Swanick asked what the proposed change to mailing from first-class to certified mailing is likely to cost. Staff responded the mailing fee would go from the current \$.60 cents per letter to just under \$5.00 per mailing. Staff responded that this is a reaction to concern raised over people not receiving their notices.

J. Sny asked for confirmation that the Town pays for this and not the applicant. Staff confirmed that is correct, but application fees will likely increase if the Town adopts this new policy.

S. Hensley asked why withdrawn applications must wait one year to resubmit. Staff confirmed that the objective is that if an applicant withdraws prior to decision that there is enough time to make the appropriate changes to the plan prior to resubmission.

S. Hensley asked staff if there were any concerns with subjecting the landowner to a one-year pause. Staff responded that there are exceptions including substantial changes and they have not seen where this would unnecessarily burden the landowner.

Motion: C. Boyd made a Motion to recommend Approval of TA23-02 based on the amendment being consistent with policies LU 1.1 and T6.6 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because the amendment will remove references no longer applicable, provide community members more opportunities for input in public processes, and allow petitions for amendments to be withdrawn at any time before final action. G. Baber seconded the motion.

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

Other Business

No other business.

Adjourn

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

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

Approved this 23 day of MAY 2023.

Chairman or Vice Chairman

Board Secretary

