

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, May 23, 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, T. Loomis, S. Hensley & J. Henson

Absent: None

Approval of Minutes

Item 2A. Consider approval of the April 25, 2023, Regular Meeting Minutes

Motion: C. Boyd made a Motion to Approve the amended April 25, 2023, minutes. J. Wright seconded the motion.

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

Public Comments

No comments

Action Agenda

J. Henson disclosed a conflict of interest on Item 4A as his company was involved in the planning and rezoning.

Motion: F. Gammon made a Motion to Recuse J. Henson from Item 4A. J. Sny seconded the motion.

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

Item 4A: Consider making a recommendation on Petition #R23-03 Ultimate Athlete, a request by Jeremy Martin to rezone +/- 1.290 acres located at 15901 Cramur Drive from Neighborhood Center and General Residential to Highway Commercial Conditional District for an indoor/outdoor recreation center.

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 proposed rezoning to include outdoor recreation and the modification request for one buffer. Staff recommends approval as it is consistent with the Huntersville 2040 Community Plan.

S. Hensley asked staff if there were concerns regarding noise and light related to the outdoor recreation use and how that will continue to be controlled in the event the current owner sells the property to a new owner. Staff relayed that the noise and lighting ordinance would apply to the current and any future operators. There were no concerns expressed by the community at the community meeting regarding the potential noise or lighting. Currently there is no proposal for outdoor lighting. Any future requests for outdoor lighting would be required to submit a new proposal to gain approval.

F. Gammon asked if there were any plans for outdoor music or broadcast. Staff confirmed that there are no proposed outdoor workout areas other than a small patio. All uses would fall under the noise ordinance.

F. Gammon recommended that staff ask the applicant about their intentions with an outside sound system and that information be provided to the Town Board for their consideration.

G. Baber asked staff to explain why the applicant was requesting the buffer modification. Staff explained that there is an easement and modifying the buffer works to improve the easement access.

Motion: C. Boyd made a Motion to recommend Approval or R23-03 Ultimate Athlete based on the plan being consistent with the 2040 Community Plan policies LU6.1 and EV2.1 which encourages a mix of land use and activity centers and encourages local small businesses to locate in Huntersville. It is reasonable and in the public interest to approve the rezoning plan because it is consistent with the existing development patterns in the area, supports the goals set in the 2040 Community Plan for activity centers. Lastly the request modifications of the buffer yard are in keeping with the spirit of the ordinance and therefore supported. G. Baber seconded the motion.

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

Motion: S. Hensley made a Motion to Reinstate J. Henson. F. Gammon seconded the motion.

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

F. Gammon notified the Board that he met with the applicant previously to learn about the project prior to his trip out of the country knowing he would only have one day to prepare for today's meeting. He did not promise the applicant anything and wanted to make the Board aware. He does not feel that he has any conflict.

Item 4B: Consider making a recommendation on Petition #R22-07 Town 1 Mixed Use Center, a request by Treenail Development, Inc. to rezone +/- 69.41 acres located at the intersection of Mt. Holly-Huntersville Road and Hambright Road from Corporate Business and Corporate Business Conditional District to Transit Oriented Development Residential Conditional District, Transit Oriented Development Employment Conditional District, Highway Commercial Conditional District, and Special Purpose Conditional District, for a mixed used development.

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 notified the Board that the project size is now adjusted to 70.54 acres and reviewed the proposed uses. Staff reviewed the adjustments to the plan since the public hearing and the requested modifications. Staff recommends approval as it is consistent with the 2040 Community Plan and the intent of the four rezoning districts.

F. Gammon asked Staff what the applicant's position is on the comments on the modifications. Staff stated that the comments have been discussed and the applicant is working with them on these.

J. Henson asked Staff to review and explain item 6 of the modification requests. Staff identified that the applicant is requesting to construct a maximum 7-story parking deck to serve the areas rezoned to TOD-

R and TOD-E prior to completion of the associated 7-story maximum office building and all structures within those rezoned areas.

C. Boyd asked if the applicant has spoken to Mr. Cruz, the remaining hold out parcel because it seems that he will be adjacent to a 7-story office building and a 5-story mixed use building to the west. Staff confirmed the applicant has spoken with the landowner and will be better able to speak to this.

S. Hensley asked staff what the massing requirements would be for this project if modification 5 were not approved. Staff responded that there would be more breaks in the building architecture, finishes, windows, or outdoor space to achieve a perceived reduction of massing.

G. Baber asked staff if they had any concern about the applicant constructing the parking deck and not following through on the associated principle building if modification 7 is granted. Staff confirmed that the request is for some flexibility in phasing and while that could happen it would not be the applicants benefit.

F. Gammon reviewed the Zoning Ordinance, Article 3.2.14.(e)3 and requested that staff review the ambiguity of the ordinance to identify if the 10-minute walk term is in reference to the center or perimeter of the transit area as it relates to the design standards of what may be built within a quarter mile out. Staff stated that this requirement was likely not intended to be rigid it was likely intended to keep density near the transit area and then feather out.

J. Sny asked if the half mile catchment applies to all TOD zones because a half-mile from the Northcross location as a bird flies would take you to the Barnes and Noble in Birkdale and he wants to consider possible potential impacts that could occur as a result of this project. Staff stated this applies to TOD-R & TOD-E.

J. Sny asked for clarification to the Public Hearing TIA comments regarding the current level of service reducing after proposed improvements are made. Staff stated that for the Town is not necessarily against a reduction of service when density and foot traffic is being encouraged as the two factors compliment each other. The full TIA approval from NCDOT has not been completed to confirm the proposed final level of service but if it matches the scoping provided by the applicant the Town would be in support of that.

J. Sny asked if the proposed building, W2 that has half fronting the street and half fronting the path would be considered acceptable if the path was usable, similar to what has been previously approved in mixed-use developments. Staff confirmed that fronting on pedestrian paths, greenways, plazas is something that would be approved. In this instance the applicant did not want to increase impervious area in that S.W.I.M. buffer. They would like to enhance that corner without increasing built-upon area that is passive, they were seeking to do a more environmentally friendly wood chip path.

C. Boyd asked staff what the timeline is for developing the CATS Park and Ride. Staff confirmed that construction plans have not been submitted but it is our understanding that funds have been allocated for the project.

F. Gammon asked if the proposed affordable housing would alleviate the need for the massing modification request. Staff stated that the state statute for affordable housing applies to the building or lot where proposed, in this case building U1. Therefore, the applicant is not subject to the massing requirements for building U1. The modification request for massing is for building A1 and A2, where the state statutes would not apply, and the applicant is subject to the zoning requirement.

Susan Irvin, Irvin Law Group of 11726 Zion Avenue Cornelius NC introduced Kristin Mulkey of Bartlett, Hartley and Mulkey, Architects. Steve Blakely of Kimley-Horn, Traffic Engineer. Peyton Woody of Woodbine Design; Engineering and Planning. Ben Geisler of Treenail Development.

Ben Geisler, Treenail Development 20419 Shearer Road Davidson NC presented the applicants presentation of the development.

Kristin Mulkey, 2173 Hawkins Road Charlotte NC presented the architectural vision of the development.

B. Geisler responded to C. Boyd's questions regarding the property owned by Mr. Cruz. He has reached out to him and reviewed the proposed development with Mr. Cruz. He does not have any concerns that he has shared with the applicant regarding the proposed development. Mr. Cruz has informed the applicant he is happy where he is and not interested in selling. A few neighbors encouraged Mr. Cruz to reconsider but he has said that he is not interested. The applicant expressed that he would love to purchase the property now or in the future, but he simply never got an opportunity to make an offer and does not have a desire to pressure Mr. Cruz.

C. Boyd asked if there is any town liability with approving the proposed project and any potential negative financial effects to Mr. Cruz property. Staff replied no that is not the Town's concern.

The applicant responded to G. Baber's questions regarding any concerns about building the parking garage prior to the office building it serves and stated the significant cost associated with the parking deck must be offset by tenants and it does not serve the developers interests to delay leased space and prioritize the parking deck. Since the parking deck will service building T1 and the office buildings o if there is a tenant interested in one and not the other at the time of construction, the ability to build them out of order would assist with the overall phases of development but would in no way benefit the developer financially to leave it that way.

The applicant responded to G. Baber's questions regarding the percentage of the project dedicated to commercial/retail. The applicant stated it is approximately 15% of the total acreage but it is a fairly dense design.

T. Loomis asked the applicant to review the proposed drive-thru layout and commented that the schools located on Hambright must travel to exit 18, 23, or 25 to do Spirit nights so some type of restaurant that accommodates Spirit nights at this location would be more convenient for those schools.

S. Hensley asked if the residential units will be for sale or rent, if the applicant had any comments regarding the TIA findings to date. The applicant stated that it will be for rent with building T1 possibly for sale. The TIA is currently in its second review and they are generally on board with the results to

date. He expressed that he prefers door-to-door conversations with neighbors and that has been underway to discuss possible road changes that could occur.

S. Hensley asked if there be phasing to the development with commitment to the commercial development. The applicant responded that from an economic viability the applicant would seek to get rooftops to support any commercial development. Simultaneous tracking is the approach the developer wants to take, for example, the M1 mixed-use flats would have 80,000 square feet of commercial on the first floor with rooftops above it and the applicant stated they would require the developer to install that simultaneously. Realistically it will likely develop with the walk-up family units as the first component, the C9 and/or C10 building will likely be next, the urban flats would follow shortly after, probably while C4 and C7 restaurant units begin to happen, then C6 will become available. In that same window they would be looking at the pedestrian village, with the office likely the last component simply due to the activity that the likely tenant would be looking to already have in place.

S. Hensley asked if the phasing would install all the interior infrastructure from day one or would it be split out. The applicant stated it would be tied to the development pieces with public streets exiting to the main thoroughfares would be immediate. The short extension through the pedestrian village would follow for accessibility on the site. The architecture for the remaining roads has already begun and development of those would happen and will likely happen in no more than three sections.

C. Boyd asked if there were additional comments regarding the level of service findings in the TIA. Steve Blakely of Kimley Horn, 200 South Tryon Street, Suite 200 Charlotte NC commented that the current level of service is "C" in the a.m. and p.m. peak hours. The projects already approved by the Town with their proposed TIA improvements will result in those intersections having a level of service "D" and "E". Then the proposed Town 1 project in being considered after that, would not further decrease the level of service from the "D" and "E" but there is a number measurement of the impact that the development would have that generates TIA improvements such as the turn lane. The biggest outcome of these improvements is safety and there are no number measurements to that. This project would add a left turn lane from Hambright Road onto Mt. Holly-Huntersville which makes a difference to reduce stacking and erratic maneuvers. Additional proposed TIA improvements were reviewed.

F. Gammon asked the applicant about their seven proposed affordable housing units with some reserved for law enforcement and firefighters. The applicant confirmed that four of the units are being prioritized for foster families and foster kids and the developer will underwrite 50-80% AMI. Two units are being prioritized for Town of Huntersville law enforcement and firefighters. F. Gammon commended the developer for their inclusion of affordable housing and encouraged that they consider prioritizing teachers as well.

S. Swanick asked if the developer will be using a rent subsidy or how will they ensure that these remain affordable. The developer stated that the foundation would subsidize through an annual cash donation to the entity responsible for the rent. The developer would also work with agencies such as Children's Hope Alliance and the Town to vet the potential applicants.

Motion: S. Hensley made a Motion to recommend Approval of R22-07 Town 1 Mixed Use Center including requested modifications and subject to the following conditions. Modification request number

one: side yard parking. Allow side yard parking on lots 6, 7, 8, 13, 18, 19 which is subject to final staff review and approval. Additional screening shall be provided in accordance with sheet C5 of the rezoning plan. Modification request number two: I77 buffer disturbance. Allow up to a 20-foot buffer disturbance in the I77 buffer for grading including a portion along Hambright Road, provided an alternative buffer yard plan is submitted in accordance with section 7.5 of the ordinance. Modification request number three: buffer reduction along Mt.Holly-Huntersville Road. Allow buffer to be reduced to 60 feet subject to screening and buffering as shown in submitted plans. Modification request number four: cul-de-sac distance. The distance between the cul-de-sac located at public road A and the right-of-way of Mt. Holly Huntersville Road may be increased to 380 feet. Modification number five: massing requirements. Waive massing requirements for the building on lot 18. Modification number six: vertical parking structure. Vertical parking may serve the TOD-E and TOD-R portions of the project. Parking may be completed prior to the completion of all the improvements such parking is intended to serve. Modification number seven: building façade requirements for building W2. No building entrance shall be required to be constructed on and no sidewalk shall be required along the portion of building W2 that does not front on the cul-de-sac and driveway adjoining building W2 subject to staff approving detailed renderings of the building frontage. All remaining staff comments, conditions, and all TIA comments are addressed. The proposal is consistent with the Huntersville 2040 Community Plan, specifically policies LU 1.1, 2, 5.1, 6.1, 7.1, 8.1, 8.3, EV1.3, T1.2, T1.3. It is reasonable and in the public interest to rezone the approximately 70.54 acres identified on the submitted plans as it is consistent with the envisioned use and development pattern set forth in the 2040 Community Plan. The location of the proposed development can support the increased density through the proximity to two major thoroughfares, future CATS park and ride facility, and I77. The proposed rezoning plans meet the intent of the four districts requested, the applicable provisions on the zoning ordinance, and together as one development plan in a cohesive manner. F. Gammon seconded the motion.

F. Gammon requested an amendment to the motion to include that the Town Board request a review of Article 3.2.14.e.3, Design Provisions to determine if the wording of seven stories or 82-feet high, whichever is higher seems ambiguous and may need discussion. Staff confirmed that they are comfortable with how it is written but they would be happy to review it. F. Gammon stated that was acceptable and withdrew his amendment to the motion.

S. Hensley commented that the site has challenges to it with the Duke power lines and he thanks the group for finding a good solution. He said at the Community Meeting someone may have mentioned the Kingsley project in Fort Mill which he agrees is also a wonderful project and he would like to think we will get something similar here in a farmhouse theme. In his opinion it will be wonderful for the community even with the industrial element and how it is placed with the project.

F. Gammon commented that a half a million dollars in annual taxes, an additional 850 jobs, the affordable housing are all pluses for the Town. There will be buildings and a parking garage that will be seven stories tall and this is the correct place for that. I also support the Downtown Plans lower heights. It is all about location.

T. Loomis commented that she finds it refreshing to look at a proposed project supported by the community. She recommended incorporating a small market of some type in the project for the convenience of the residents, particularly any who may have to ride the bus.

J. Snyder commented that this is truly a mixed-use development that appears to be well thought out, designed, and cohesive which is refreshing.

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

Other Business

No other business.

Adjourn

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

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

Approved this 26 day of JULY 2023.

Chairman or Vice Chairman

Board Secretary

