Town of Huntersville
NORTH CAROLINA

AGENDA
Regular Planning Board Meeting
June 22, 2021 - 6:30 PM

TOWN HALL (**101 Huntersville-Concord Road**)

Virtual Meeting Information- *Members of the public may view or access the meeting on Facebook Live at https://www.facebook.com/HuntersvilleNCTownGovernment. If you would like to speak at the upcoming meeting during public comment, please send your name and email address to Tracy Barron tbarron@huntersville.org by 3:00 pm on the day of the meeting, to be added to the speaker's list. The Town will use your email address to send you an email invitation from Ring Central. This will allow you to call in and/or access the meeting to deliver your comments (the 3-minute time limit still applies). In addition, the Town will receive written comments below by email to Tracy Barron tbarron@huntersville.org until twenty-four (24) hours prior to the meeting.*

1. **Call to Order/Roll Call**

2. **Approval of Minutes**

   2.A. Consider approval of the May 25, 2021 Regular Meeting Minutes

3. **Public Comments** - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*

4. **Action Agenda**

5. **Other Business**

   5.A. Planning Board Rules of Procedure

6. **Adjourn**

Town of Huntersville
NORTH CAROLINA

Minutes of the Meeting
Regular Planning Board Meeting
May 25, 2021 - 6:30 PM

TOWN HALL (101 Huntersville-Concord Road)

Virtual Meeting Information- *Members of the public may view or access the meeting on Facebook Live at https://www.facebook.com/HuntersvilleNCTownGovernment. If you would like to speak at the upcoming meeting during public comment, please send your name and email address to Tracy Barron tbarron@huntersville.org by 3:00 pm on the day of the meeting, to be added to the speaker's list. The Town will use your email address to send you an email invitation from Ring Central. This will allow you to call in and/or access the meeting to deliver your comments (the 3-minute time limit still applies). In addition, the Town will receive written comments below by email to Tracy Barron tbarron@huntersville.org until twenty-four (24) hours prior to the meeting.*

1. Call to Order/Roll Call

Members Present: S. Swanick, J. Davis, C. Graffy, F. Gammon, C. Boyd, G. Baber, S. Hensley, J. Sny.

Member Absent: D. Partee

2. Approval of Minutes

2.A. Consider approval of April 27, 2021, Regular Meeting Minutes

C. Graffy made a Motion to Approve the April 27, 2021 Minutes. J. Sny seconded the motion. The motion passed unanimously (8-0).

3. Public Comments - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*

David Sayers, 12232 Mayes Road expressed a concern about the intersection of Mayes Road and Old Statesville Road being inadequate for the additional residences that are being considered for this project and other projects along Mayes Road. It is above grade at that railroad crossing and very precarious, he would like to know if there is a plan to make an at-grade crossing where it is level and more safe for vehicles to travel that route, and expressed concern about the lot sizes being small.

4. Action Agenda

J. Davis made a Motion to Amend Agenda and hear item 4E – Mayes Road Subdivision Sketch Plan prior to Item 4D – TA21-01 Amendments to Zoning and Subdivision Ordinance. F. Gammon seconded the motion. The motion passed unanimously (8-0).

4.A. SUP21-01 - Ivory Barn Banquet Facility Modification

B. Priest, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as

Exhibit A and incorporated herein by reference. Staff provided a summary of the original special use permit (SUP20-01) approved September 8, 2020 and stated that today's request is to amend the conditions and restrictions from the original approval. Proposed amendments include:

1. Increase from 5,000 square feet to 5,416 square feet).
2. Addition of second event structure – open air pavilion in rear of Event Barn. Maximum size 2,400 square feet.
3. Additional specimen tree removal/tree canopy removal in conformance with ordinance.
4. Reduction of 7 paved parking spaces.

Staff has requested documentation that the proposed 83 paved parking spaces will be sufficient; septic permit be reconciled with the SUP plan; notes are clarified to indicate maximum use per day which could require a different TIA report and septic field; and that septic area will not encroach into 30-foot buffer area since plantings on septic fields are not permitted. Staff recommends approval based on the findings of fact described in the staff report, with the condition that staff comments 3 – 6 be addressed prior to final approval.

F. Gammon asked if the tree canopy is being removed given what is indicated on the site plan. Staff stated that it appears there are two trees outside of the buffer that are being removed which is reducing the canopy, but they are still well within their required tree save/canopy.

C. Graffy asked if the note related to the large specimen tree near the parking area was retained in this requested amendment or needed to add to any proposed motions today. Staff confirmed that the note has remained on the plan and will not be required to be included in the motion to amend.

C. Boyd asked what would prevent this location from having more than 200 people here. Staff commented that enforcement would be done occasionally through code enforcement visits, the conditions of the overflow parking, and any complaints submitted by neighbors which would be routed to the Police.

J. Davis asked where the paved parking will be located, if the applicant plans to improve or adjust any landscape buffer since they are requesting an outdoor pavilion, and if the outstanding septic permit capacity issues are the same as the issues raised in September. Staff commented that the applicant is permitted and has elected to pave with gravel, any adjustments to buffer landscape would be required to be replaced to maintain opaqueness of the buffer, and the septic permit capacity issues are the same.

G. Baber asked if the potential encroachment to the 30-foot buffer is still outstanding. Staff stated that the applicant has confirmed it is close but not in the 30-foot buffer.

Jay Henson, Henson Foley 121 Gilead Rd, Huntersville, NC 28078 spoke for the applicant and stated that based on comments from staff the proposed amendments have been adjusted. The building size will remain at 5,000 square feet; parking spaces will remain at a total of 90; grading close to a tree can appear as reduced tree canopy but the tree is saved so it does not count as canopy when the tree is not actually removed, which this will not be, and there will not be any grading in the buffer; the septic plan works for 200 people a day as designed. The applicant asked staff if the wording under Use and Hours of Operation should be limited to one event per day or maximum number of people in attendance per day.

F. Gammon confirmed the tree save/canopy and asked if there is a new septic plan versus the one submitted with the agenda which indicates 150 people per day, once per day, 4 – hours duration. J. Henson stated that the septic permit finalized around April 26 is approved for 200 people.

J. Davis asked if Staff has received and reviewed the confirmation of the septic permit approval. Staff stated that it was not received prior to the staff report and has not been able to review that yet. J. Davis commented that based on that she would recommend deferral.

F. Gammon made a Motion to Approve SUP 21-01, modification of SUP 20-01 Ivory Barn Event Venue, the Planning Board finds that the request meets all required conditions and specifications, it is reasonable and does not pose an injurious effect on adjoining properties. The Planning Board further finds that the impact upon the character of the neighborhood, as well as the health, safety and general welfare of the community will be minimized. The decision is supported by the Town of Huntersville Zoning Ordinance as stated in the staff analysis findings as follows: 1) The request meets the zoning ordinance criteria of Article 3.2.1 and 2) The request meets the zoning ordinance criteria of Articles 9.59.1 through 9.59.11.d. This recommendation for approval is contingent upon Mecklenburg County approval of the septic permit limits the site to 150 guests and one – four-hour event per day; however, the site plan states the maximum capacity for the venue is limited to 175 guests and 25 staff/workers. There will be one wedding or event per day, and it will operate no earlier than 8 a.m. and no later than 12 a.m. to include set-up and clean-up. The Planning Board recommends the number of guests and workers and the hours of allowed operations on the septic permit be reconciled with staff to match the number of guests, workers and hours of operation on the special use permit plan. Under use and hours of operation notes on the special use permit plan, the Planning Board recommends clarifying that the permit is limited to one event per day for the entire facility, for example a wedding and an additional event of any type is not permitted. S. Hensley seconded the motion.

F. Gammon commented that it appears that the applicant has everything submitted correctly and Staff will have the opportunity to review it prior to sending it to the Town Board. This use appears to be a good fit for this land.

S. Swanick asked for confirmation that the motion is to approve one total event per day. F. Gammon responded that the Use and Hours does not need to be specific, it needs to be reconciled to the permit to determine what should be allowed. What time of day, how many guests/workers, and how many events as indicated on the septic permit.

J. Davis commented that she is in support of the plan, but she is not comfortable making a recommendation with partial information. F. Gammon responded that the inclusion of the motion being contingent upon should cover the outstanding items, which if met they receive approval and if the do not meet then they do not receive the approval.

S. Hensley commented that he agrees with J. Davis and the Planning Board wants to send a good product up to the Town Board. He is comfortable with the motion and that it will reconcile any outstanding issues. The motion as he understands it will not be more restrictive than the septic permit.

C. Boyd expressed concern about the one event limitation when in reality one morning event with 50 people and one in the evening with 50 people would still meet the septic requirements. S. Swanick asked if the applicant has concerns with the motion. J. Henson commented that he agrees with C. Boyd and it would be great to have that option and not be more restrictive than the septic permit.

F. Gammon commented that he agrees with the C. Boyd and his intent is for Staff to review the septic permit and adjust the Use and Hours of Operation notes to align. Staff reviewed that the Zoning Ordinance Article 9.59 addresses that the facility must provide proof of adequate septic services for the proposed use.

C. Graffy commented that staff stated that considering multiple events would require a new TIA and stated that it appears Staff has all the documents that will be needed to review this prior to the Town Board meeting. Staff stated that the applicant will have to state their intent regarding multiple events and that would need to be reviewed with Engineering to determine if a new TIA will be required. As it relates to the septic permit, Staff agrees that the paperwork will be able to be reviewed prior to the Town Board meeting.

S. Hensley commented that the motion may need to be amended to state the applicant can have up to two events, that shall not exceed the total amount of guests permitted by the final septic permit issued by

Mecklenburg County. J. Henson commented that the applicant's intent is to stay within the scope of the septic permit and TIA. Staff stated that while they understand how this makes sense, it is moving away from the general assumptions and should be reviewed by the Engineering department. S. Hensley asked the applicant if they would like to consider a deferral to get the necessary input that would be possibly allow this amendment. J. Henson said the applicant is comfortable moving forward with the current motion.

S. Swanick requested that it be noted that there was extensive discussion with the applicant related to the quantity of events so long as the totality met the septic permit restrictions.

The motion passed (6-2) with J. Davis and J. Sny opposed.

4.B. R20-05 Vermillion Village Town Center Conditional District Rezoning Amendment

S. Hensley expressed conflict with his business and this project and requested to be recused. J. Sny made a Motion to Recuse Scott Hensley for Items 4B and 4C. J. David seconded the motion. The motion passed unanimously (7-0).

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the plan approved in 2017 which allowed for 400 multi-family units (apartments/townhomes) and up to 165,000 square feet of commercial development. The proposed rezoning modifies to 292 apartments, 49 townhomes and a minimum of 70,000 square feet of commercial development.

The TIA and Engineering Staff recommends:

1. NC 115 at Gilead Road/Huntersville-Concord Road: Addition of a protected/permitted signal phasing for the existing southbound left-turn lane, or applicant funding towards a future improvement project.
2. Huntersville-Concord Road at Cinnabar Place/Driveway #1: Construct an eastbound left-turn lane on Huntersville-Concord Road with 100 feet of storage; construct a westbound left-turn lane on Huntersville-Concord Road with 100 feet of storage; construct a westbound right-turn lane on Huntersville Concord Road with 100 feet of storage.
3. Huntersville-Concord Road at Site Driveway #2: Construct a westbound right-turn lane on Huntersville-Concord Road with 100 feet of storage; Right-in/out only access (concrete median along Huntersville-Concord Road)

The developer has modified to a 10' wide side path along Huntersville-Concord Road to align with the newly adopted Huntersville Bike Plan. Per the comments at the public hearing which expressed a strong desire for a grocery store and other commercial uses, the developer has proposed language to "limit the first floor of the commercial uses to be permitted by right, and offices will be limited to health care services only." Staff recommends approval and the applicant is present to answer any questions.

S. Swanick asked what the language regarding the commercial uses would change. Staff responded that insurance and legal offices, for example, would not be permitted on the first floor. In the category of office use, only medical would be allowed on the first floor of the commercial space.

Nate Bowman, 13815 Cinnabar Pl, Huntersville, NC 28078 commented that the concern was that the space would be filled up with business offices and this language is to show that that is not the intent. The first floor uses total 47,600 square feet.

J. Davis asked for clarification on what medical only entails or limits, why the modification is being requested, and how many phases of construction are proposed. The applicant stated that medical uses would allow for things like an Urgent Care, medical, and dental, but not other types of business offices. The original grocer interested in this space has stated that they will not be able to consider this location until at the earliest, 2024-25. Given the lack of interest from a grocer to become an anchor tenant, the plan had to be modified to move commercial tenants to front Huntersville-Concord Road and add a possible brewery site by the water tower location. There is a proposed 14,000 square foot commercial building and the developer continues to try to secure a tenant for a neighborhood market. The goal is to have the density of the development provide an adequate base to attract the commercial. The applicant stated that all building pads will be installed in the first phase, the commercial buildings will be added in the second phase.

J. Davis followed up asking if the reduced commercial density is what caused the previously required traffic light to go away. The applicant responded that the low accident rate and traffic counts did not warrant a light; however, they are working with NCDOT regarding a flashing beacon for a pedestrian crossing warning.

C. Boyd expressed that he understands not receiving a response from Harris Teeter, but this is the one piece of land large enough to develop a grocery store on this side of town. The applicant agreed that the residents may want it but the grocers do not, there are 5 grocery stores within 1.5 miles. Additionally, there are still 5-6 locations on this side of town that are large enough to develop a grocery store in the future, should a grocer express interest in the future.

C. Graffy commented about the safety of crossing Huntersville-Concord and she applauded the applicant for working to get a signalized crosswalk. She then asked if there is flexibility in the proposed plan to increase commercial since this now asks for a minimum of 70,000 square feet, and if flexibility is built in, how does that affect parking and potentially TIA. The applicant responded that there will not be flexibility beyond the 70,000 square feet, the wording is to ensure that the intention of the commercial aspect is clearly understood.

N. Bowman followed up that the discussions with Mecklenburg County related to a greenway concession are nearing completion but as of today have not been finalized.

J. Sny asked how the adjustments have affected the ownership of the project, if Embrey will be the owners of the apartment complex, what a building pad entails, and if there is a reason that they are not going with a shell approach to the commercial structures. The applicant responded that they are restructuring their partnership with the adjustments to the commercial development, Embrey will own the apartments and the building pads will be building ready short a slab, and the shell approach has not been ruled out.

J. Sny asked why the developer does not wait for the rooftops and traffic counts to grow to support the currently approved commercial development, and what assurance there is that if this is approved the developer will build this and not return and ask for additional concessions. The applicant stated that it is not financially viable to wait, adding the density will support the proposed commercial and there are other lots on this side of town that could be used to develop a grocery store in the future. The applicant stated that in their opinion, this is the highest and best use of the land at this time and any time a large development is done there are adjustments that may need to happen but those always go through Town staff and when needed these Boards to allow the public to have input on those changes.

G. Baber asked what amount of commercial space would remain if a doctor and dental office and Urgent Care were all secured, and if the applicant has an approximate total number of possible neighborhood grocers that would fit within that footprint. S. Vermillion, applicant, stated that an Urgent Care will likely go to the second story, and if they were able to secure a doctor, a dentist and an Urgent Care it would likely utilize 10,000 square feet; and there are 3-4 grocers that may consider the smaller square footage. The access to the interstate continues to be the determining factor for grocers such as Trader Joe’s (moving into Cornelius) and Lowe’s (moving into old Earth Fare building).

G. Baber stated that what the residents have expressed they wanted originally was a village, how does the applicant propose to maintain a community feel with these amendments, will there be any outdoor space for tenants to utilize. The applicant stated that all water retention will be placed underground, there is a community park proposed and a brewery/restaurant site is proposed adjacent to this, the water tower will be painted and kept in the open space, there is a promenade between the two spaces of the townhomes and apartments, the architecture of the apartments will be a nice feature and their amenities for the apartments should be very attractive, there will be a continuation to the Clarke Creek greenway here, and a nice buffer between the existing homes on Glendale Drive and the development, and the proposed 14,000 square feet for the neighborhood grocer could definitely incorporate some outdoor space.

F. Gammon commented that this plan calls for 11 units/acre. Staff confirmed that is correct. F. Gammon then clarified that the density is allowed because it is within a quarter mile of a proposed but non-existent rail transit stations. He then referenced Zoning Ordinance, Article 3.2.6.d.4 and the East Huntersville Area Development Plan that was adopted in 2007 which states on page 7 that a Commuter Rail Train will be located just north of the intersection of Main Street and Huntersville-Concord Road. He then asked, from what specific point is that measured and was it the same point used to measure the NorthState Development. Staff confirmed that the engineered plans from CATS indicate the location, which is roughly across the street from the Veteran's Park, and Frank can stop by the office to view the plans for himself. N. Bowman stated that he has not given up on the rail even though it may not happen in the next 20 years; just like sidewalks, if we don't put them in there will never be connections, even if at present the sidewalks do not connect. If we had the rail, then the density on this property should have been 20-30 units/acre such as in South End. Hopefully we will get rail service, even its not what was originally envisioned, possibly new technology. F. Gammon commented that it concerns him that we are allowing development, based on densities, based on locations of non-existent rail transit stations that may or may not ever come in our lifetime. While he doesn't know the impact of that and values that J. Simoneau knows far more about it, but he has concerns about it.

J. Simoneau responded that the Town has committed to do a Downtown Plan for this conversation as Frank is not the first person to raise the concern related to a rail line not coming soon, if at all. The conversation with the community is getting ready to begin and this has been budgeted for. Additionally, if the desire is to have commercial development, he reminded, you must have rooftops. Currently, within half mile of Town Center there are 505 single-family homes, 301 condo/townhomes and 490 apartments. Currently, in Cornelius, where people have commented that there is a grocery store, there are 661 single-family homes, 478 condo/townhomes will increase to 528 if approved; and 548 apartments which will increase to 946 if approved. To support transit with residential, the density you are looking for is 15-40 units per acre, well over the proposed 11 units per acre. F. Gammon restated that he is not necessarily opposed to the density he is concerned about how we allow it. The downtown plan would be the process he would be more in favor of.

J. Sny commented that even if you removed the quarter mile limitation to the Town Center zoning, the density still applies. There is no downtown model that doesn't include people. He agrees with many people that the red line is a waste but as far as the density is concerned, he thinks it makes sense.

G. Baber made a Motion to Approve the proposed rezoning petition R20-05; Vermillion Village, the Planning Board recommends approval. We find the amendment to be consistent with but not limited to, the following policies, LU2-1, LU6-2, LU7.1, LU9.1, EV2.3, DT1.3 of the Huntersville 2040 Community Plan. The Planning Boards approval is subject to the following recommendations, all required TIA Town NCDOT required improvements are provided, all outstanding transportation comments are addressed, all outstanding redline Huntersville Planning Staff comments are addressed, and the Town Board approving the revocation of the Special Use Permit. It is reasonable and in the public interest to rezone because the updated plan is better suited to the potential businesses that might move into this property. J. Davis seconded the motion.

G. Baber commented that he has changed his stand on this during the discussion and is moved to approve this based on the applicant's feedback related to the current market, what is reasonable and workable for this area, this is an asset to the community, and he has to take the applicant's word that the original plan is not viable.

J. Davis commented she also changed her position and in listening to the discussion and reviewing the plans that while she is disappointed in the commercial square footage reduction, but 70,000 square feet will be a good addition and she thanked the applicant for meeting the tree save on this project.

J. Davis then shared a comment from Derek Partee who was absent this evening, “I am in agreement with the community residents that express a need for a grocery/market in the commercial space, a holistic/natural food market, i.e. Earth Fare or Whole Foods type of market has a loyal, select customer base that will drive from surrounding towns to buy healthy produce. I would encourage the developers to continue their search for a retail business or grocery market.”

S. Swanick commented that the original plan was up to 165,000 square feet and now it is amended to a minimum of 70,000 square feet which is coming across as an under delivery but in reality, is not. He has provided a commitment and neighborhood feel which will be an asset to the community.

J. Sny asked if the original sale contract improvement minimum of $250,000 will still be required with this amendment. The applicant responded that the cost will greatly exceed the minimum off-site improvements.

The motion passed unanimously (7-0).

4.C. Removal of Special Use Permit 17-01

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff related that the original SUP 17-01 was required for a building over 50,000 square feet, which was necessary for the original anchor grocery store. An official action to vacate the special use permit is required and is recommended by the staff.

C. Graffy made a Motion to Approve to permit the removal of special use permit 17-01 from its application to this property. C. Boyd seconded the motion. The motion passed unanimously (7-0).

F. Gammon made a Motion to Reinstate Scott Hensley. G. Baber seconded the motion. The motion passed unanimously (7-0).

4.D. TA21-01 Amendments to Zoning and Subdivision Ordinance

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit E and incorporated herein by reference. Staff reviewed the state statutes which required the proposed changes.

J. Davis asked what the expected role of the Planning Board is regarding the many amendments proposed here. Staff responded that the proposed amendments started with the Town Attorneys, then Staff reviewed them, and the the proposed changes were provided in about three segments to the Ordinance Advisory Board for review. The Ordinance Advisory Board held a special meeting to endorse it in its entirety and there were a few questions prior to their motion to recommend approval.

S. Swanick commented that this is legally required by July 1 and he is not sure what the Planning Board is required to add in this limited time. While it is possible that there may be an error, that will need to be resolved through a text amendment at that time, and at this time he recommends approving the changes to move forward.

F. Gammon commented that he agrees the amendments should be moved forward.

J. Sny commented that he is fine with moving this forward based on the administrative staff completing their roles in preparing this.

S. Swanick made a Motion to Approve TA21-01 to amend the Huntersville Zoning & Subdivision Ordinance, the Planning Board recommends approval based on the amendments being consistent with state law. It is reasonable and in the public's interest to amend the Zoning Ordinance because state law has forced revisions to ordinances, and it is in the best interest of the town to comply. F. Gammon seconded the motion. The motion passed unanimously (8-0).

4.E. Mayes Road Subdivision Sketch Plan

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit D and incorporated herein by reference. Staff reviewed the proposal for a development to include 83 single-family homes, including the preservation of the existing home built in 1921 with a density of 1.49 units per acre.

At the neighborhood meeting there was concern about the proximity of the houses to the adjoining neighbors. The plan has been revised to have a minimum of 60 feet on the eastern side, and the access point which would have affected neighbors to the north. NCDOT has determined that they will allow a full access point so that it will not affect the neighbors.

Additionally, staff noted that there is a vegetated buffer requirement along the property lines, the proposed plan exceeds the minimum 80-foot buffer along Mayes Road, the tree save includes the large trees around the existing home which is to be preserved. Staff recommends approval as the application is complete and with a comment to clarify the minor issues noted.

To the public comments, staff shared that there was a study done by CATS, Norfolk Southern and the Towns regarding this intersection. The result was that the grade was too great so you would adjust the crossing to occur using the Caldwell Station Road just south of Mayes Road. Mayes Road is an NCDOT road so it will be up to them and they are in conversation with Norfolk Southern as a result of this potential development. In terms of lot size, there are two other developments proposed on Mayes Road, one in Davidson at 2.63 units/acre and one in Cornelius at 1.89 units/acre. The density proposed here is the lowest of the three developments.

J. Sny asked staff how the proposed 2.1 acres surrounding the existing home will be handled. N. Bowman, applicant, responded that it will be its own deed restricted lot that will be part of the community to preserve the home and the outbuildings. They are still deciding if they will talk with the Mecklenburg Historic Landmarks Commission as the Mayes have lived in this home for over a hundred years.

S. Hensley made a Motion to Approve Mayes Road Subdivision. The Planning Board finds that 1) the application is complete, 2) the sketch plan complies with all applicable standards, and 3) the Planning Board recommends approval of the site plan. C. Boyd seconded the motion.

S. Swanick commented that it is refreshing to a see a by-right development with density that is fitting with the zoning and in working to preserve the historical home and while not resolved that intersection is noted as an issue that NCDOT will need to address.

The motion passed unanimously (8-0).

5. Other Business

6. Adjourn

J. Davis made a Motion to Adjourn. C. Graffy seconded the motion. The motion passed unanimously (8-0).

Town of Huntersville
Planning Board
June 22, 2021

To: Town Board

From: Tracy Barron, Exec Asst

Date: June 22, 2021

Subject:

EXPLAIN REQUEST:

ACTION RECOMMENDED:
Make Recommendation

FINANCIAL IMPLICATIONS:

ATTACHMENTS:
1. Planning Board ROP JG EAS 4-8-21 (1)

Rules of Procedure

Huntersville Planning Board

1) Regular Meetings

At its organizational meeting, the Planning Board shall fix the time and place of its regular meetings. The regular meeting schedule may be changed by the Board at any time upon compliance with the notice provisions of the open meetings law.

2) Special Meetings

Upon compliance with the notice provisions of the open meetings law, the Chairman, or, in the absence of the Chairman, the Vice Chairman, or four or more members of the Planning Board may call a special meeting by causing a written notice stating the business to be transacted and the time and place of such meeting, and signed by the person or persons calling the same, to be delivered in hand to each member or to be left at his usual dwelling or place of business at least 48~~24~~ hours before the time of such meeting. Only the business stated in the written notice may be transacted at the special meeting so called.

3) Electronic Meetings

When a State of Emergency has been declared in accordance with N.C.G.S. § 166A-19.20 that is applicable within the Town limits the Board of Commissioners and any Town board, committee, or commission may hold a regular, special, or emergency meeting as a remote, electronic meeting using technology such as Zoom, Ring Central, or another virtual or teleconferencing platform.

Any electronic meeting held under this rule must comply with the requirements of N.C.G.S § 166A-19.24. Under such conditions, an electronic meeting shall be treated as though it were a meeting at which all of the Board members who are simultaneously communicating are physical present.

A member of the public body participating by simultaneous communication under this section shall be counted as present for quorum purposes only during the period while simultaneous communication is maintained for that member.

Votes of each member made during a remote meeting under this section shall be counted as if the member were "physically present" only during the period while simultaneous communication is maintained for that member.

~~3)~~4) Organizational Meeting

At the regular meeting in July,~~ne,~~ upon receiving the report of the nominating committee (if any) of the Planning Board, the Board shall elect from its members a Chairman and Vice Chairman for a term of one year.

~~4)~~5) Agenda: Procedures

i) The staff to the Planning Board, in consultation with the Chairman, shall prepare the agenda for the meeting. Each member of the Planning Board shall receive a copy of the agenda and it shall be available for public inspection when it is distributed to Board members.

ii) During its consideration of the agenda, Board members shall confine their discussion and comments to those items that appear on the agenda.

~~ii)~~iii) ~~Any matter which is not on the agenda may be discussed upon the completion of the agenda.~~ The Board may not take formal action on any non-agenda matter unless all Board members vote to add the matter to the agenda. A motion to suspend the rules shall not be in order if the purpose of the motion is to suspend the requirement of unanimity necessary to add a non-agenda matter to the agenda.

~~iii)~~iv) The Chairman or any member of the Board may request the staff to place an item on a future agenda by making such a request at a Planning Board meeting. Unless a Board member objects, the requested item shall be included. If a Board member has an objection, the item in question shall not be included on a future agenda unless a majority of the Board votes in favor of including the item.

~~iv)~~v) The Planning Board may periodically hold policy agenda meetings and workshops to discuss issues of a policy nature and to determine the necessity for further action. Policy agenda meetings and workshops will be considered informal sessions of the Planning Board and no formal decisions shall be made at these meetings. The staff to the Planning Board shall prepare an agenda for the meeting and the recorder shall provide minutes of the meeting.

~~5)~~6) Addressing the Planning Board

i) ~~i)~~ Persons desiring to speak on a non-agenda matter that falls within the purview of the Board may be recognized by the Chairman to speak during the Public Comment period~~section~~. Persons desiring to speak on an agenda matter may be recognized by the Chairman to speak when the item comes up on the agenda. Each speaker shall identify himself by name and address.

ii)

~~ii)~~ For each agenda item, proponents shall be heard first and shall be provided three (3) minutes each. Opponents shall be heard after the proponents for that particular agenda item~~,~~ and shall be provided three (3) minutes each. The Chairman may limit time for each speaker proportionate to the number of persons who signed up to comment, if more than 30 minutes will be required for both proponents and opponents.

~~6)~~7) Office of the Chairman

The Chairman shall preside at all meetings of the Planning Board. In order to address the Board, a member must be recognized by the Chairman. The Chairman is entitled to vote on all matters and shall be considered a member for all purposes, including the determination of whether a quorum is present. In addition to participating as a member, the Chairman shall have the following duties:

i) To rule motions in or out of order, including any motion patently offered for obstruction or dilatory purposes;

ii) To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;

iii) To entertain and answer questions of parliamentary law or procedure;

iv) To call a brief recess at any time;

v) To adjourn in an emergency, and

vi) To appoint, as needed, special committees from among the members.

~~7)~~8) Office of Vice Chairman

At the organizational meeting, the Planning Board shall elect from among its members a Vice Chairman. A Board member who serves as Vice Chairman shall be entitled to vote on all matters and shall be considered a member for all purposes, including the determination of whether a quorum is present. In the Chairman's absence, the Vice Chairman shall preside, and when presiding, shall have the right to vote upon all questions.

~~8)~~9) Quorum

A simple majority of appointed members shall constitute a quorum. A member, who leaves a meeting, whether excused or unexcused, shall be counted as present for purposes of determining whether a quorum is present.

~~9)~~10) Attendance

In order for the Board to carry its duties and responsibilities it is necessary for all members to attend the regular meetings. The Town Board may remove members who do not attend seventy-five percent (75%) of the Regular meetings in a twelve (12) consecutive month period~~,~~ or who miss three (3) consecutive regular meetings.

~~10)~~11) Action by the Planning Board

The Planning Board shall proceed by motion, although limited discussion of a matter may be had prior to a motion being made. Any member may make a motion. All motions shall require a second in order to be considered by the Board.

~~11)~~12) One Motion at a Time

A member may make only one motion at a time.

~~12)~~13) Substantive Motion

A substantive motion is out of order while another substantive motion is pending.

~~13)~~14) Adoption by Majority Vote

A motion shall be adopted if it receives affirmative votes from a simple majority of members present.

~~14)~~15) Debate

The chairman shall state the motion and then open the floor to debate on it. The Chairman shall preside over the debate according to the following general principles:

i) The introducer (the member who makes the motion) is entitled to speak first, and

ii) A member who has not spoken on the issue shall be recognized before someone who has already spoken.

~~15)~~16) Procedural Motions

In addition to substantive motions, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

I. To adjourn.

ii) The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.

iii) To take a recess.

iv) To suspend the rules.

v) The motion requires a vote equal to the number required for a quorum.

vi) To divide a complex motion and consider it by paragraph.

vii) To defer consideration.

viii) A substantive motion whose consideration has been deferred expires one hundred (100) days thereafter unless a motion to revive consideration is adopted.

ix) Call of the previous question.

x) The motion is not in order until all members who have indicated a desire to be recognized have had an opportunity to speak once.

xi) To postpone to a certain time or day.

xii) To refer to a committee.

xiii) Sixty (60) days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Board, whether or not the committee has reported to matter to the Planning Board.

xiv) To amend.

xv) An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposite of the intent of the motion. The amending of a motion is effective only with the consent of the maker and seconder of the original motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made.

xvi) To revive consideration.

xvii) The motion is in order any time within one hundred (100) days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires one hundred (100) days after the deferral unless a motion to revive consideration is adopted.

xviii) To reconsider.

xix) The motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken. The motion cannot interrupt deliberation on a pending matter but is in order at any time before actual adjournment.

xx) To rescind or repeal.

xxi) To ratify

xxii) To prevent reconsideration for three (3) months.

xxiii) The motion shall be in order immediately following the defeat of a substantive motion and at no other time. To be adopted, the motion requires a vote equal to the number required for a quorum; it is valid for three (3) months.

xxiv) To substitute.

xxv) A motion to substitute may seek the opposite result of the original motion, but it must be pertinent to the subject matter of the original motion. A substitute motion is voted on prior to taking a vote on the original motion. It shall not be necessary for the Board to vote a second time on the same subject matter if a motion to substitute is approved.

~~16)~~17) Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

~~17)~~18) Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before a vote. Permission of the members seconding the motion is not required.

~~18)~~19) Duty to Vote

Pursuant to §160D-109, members of appointed boards shall not vote on any advisory or legislative decision regarding the adoption of a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. For purposes of these rules a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Every member must vote unless excused by the remaining members. A member who wishes to be excused from voting shall so inform the Chairman, who shall take a vote of the remaining members. No member shall be excused from voting except upon matters involving a conflict of interest as set forth in the preceding paragraph or~~,~~ the consideration of his or her own ~~financial interest or~~ official conduct. In all other cases, a failure to vote by a member who is physically present at the meeting, or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

~~19)~~20) Adoption of Motions and Resolutions

The affirmative votes of a simple majority of members present shall be required for the passage of any motion.

~~20)~~21) Amendment

The Planning Board may amend the Rules of Procedures at any time provided that the amendment is presented at one meeting and action is taken at the next scheduled meeting.

~~21)~~22) Minutes

Minutes of the Planning Board meetings shall be kept and shall be opened to the inspection of the public. The results of each vote shall be recorded in the Minutes.

23) Standards for Granting a Variance

A variance may only be granted upon a showing that all four of the following provisions are met:

1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

~~22)~~24) Committees of the Planning Board

The following rules shall be applicable to the meetings of any standing or ad hoc committee, which may be formed by the Planning Board from among its own members:

i) A quorum shall be required consisting of a majority of the members of the committee.

ii) The chairman of the committee shall have a vote on all matters coming before the committee.

iii) Minutes of committee meetings shall be kept and open to the inspection of the public. The results of each vote shall be recorded in the minutes.

Adopted, as amended, this ______ day of __________________ 2021.

~~Approved and adopted this 27th day of May, 2014.~~

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Stephen Swanick~~Bruce Andersen~~, Chairman

ATTEST:

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Tracy Barron~~Michelle V. Haines~~, Secretary