

Mayor
Christy Clark

Mayor Pro Tem
Jennifer Hunt

Commissioners
Alisia Bergsman
Amanda Dumas
Edwin Quarles
LaToya Rivers
Nick Walsh



Town Manager
Anthony Roberts

Deputy Town Manager
Jackie Huffman

Assistant Town Manager
Bobby Williams

Town Attorney
Emily Sloop

Town Clerk
Janet Pierson

AGENDA

Regular Town Board Meeting September 17, 2024 - 6:00 PM TOWN HALL (101 Huntersville-Concord Road)

Live stream available via YouTube [@townofhuntersvillenc28078](https://www.youtube.com/@townofhuntersvillenc28078)

- 1. Pre-meeting**
- 2. Call to Order**
- 3. Invocation/Moment of Silence**
- 4. Pledge of Allegiance**
- 5. Announcements**
- 6. Public Comments, Requests, or Presentations**
 - 6.A. Constitution Week Proclamation.
 - 6.B. World Peace Day Proclamation.
- 7. Agenda Changes/Adoption of Agenda**
- 8. Consent Agenda**
 - 8.A. Approve the minutes of the September 3, 2024 Regular Town Board Meeting. (*Janet Pierson*)
 - 8.B. Approve budget amendment appropriating USTA Grant revenue in the amount of \$23,000 for the resurfacing of the tennis courts at North Mecklenburg Park. (*Pattie McGinnis/Michael Jaycocks*)
 - 8.C. Adopt Resolution authorizing the electronic public auction of surplus fire vehicles. (*Emily Sloop/Chief Jim Dotoli*)

9. Public Hearings

10. Other Business

- 10.A. Consider decision on petition #TA24-06 "Farmhouse Cluster Changes" a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.1(e), 3.2.2(e), 3.2.1(d)3(c), 3.2.2d)3(c), and 12.2.1 "Open Space" of the Huntersville Zoning Ordinance to make changes to Farmhouse Clusters and Open Space. (*Nathan Farber*)
- 10.B. Consider decision on Petition #TA24-07 "Accessory Dwelling Units in General Residential," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.3(c) of the Huntersville Zoning Ordinance to remove the family-only occupancy requirement from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zones. (*Patrick Patterson*)
- 10.C. Consider decision on Petition #TA24-08 "Family Care Home," a text amendment request by the Town of Huntersville Planning Department to amend Article 12, Section 12.2.1 of the Huntersville Zoning Ordinance to update the language to specify where a Family Care Home's one-half mile radius distance is measured from. (*Patrick Patterson*)
- 10.D. Consider decision on Petition #TA24-09 "Building Separation," a text amendment request by the Town of Huntersville Planning Department to amend Article 8.10 and Article 12.2.1 of the Huntersville Zoning Ordinance to closer align our rules regarding building separation to North Carolina Building Code Standards and North Carolina Residential Code Standards. (*Patrick Patterson*)
- 10.E. Consider decision on Petition #TA24-12: Proposed text amendment to modify or remove uses requiring a Special Use Permit, affecting Articles 3 and 9 of the Huntersville Zoning Ordinance. (*Brad Priest*)
- 10.F. Consider adopting Resolution Authorizing the Issuance of General Obligation Bonds, Series 2024. (*Pattie McGinnis*)
- 10.G. Consider adopting Capital Project Ordinance for the 2024 Transportation General Obligation Bond of \$25,000,000 and the 2024 Parks and Recreation General Obligation Bond of \$4,000,000 Issue. (*Pattie McGinnis*)
- 10.H. Consider approving AT&T Letter of Agreement for Custom Work and Estimate of Actual Cost Government Agreement. (*David Lucore*)
- 10.I. Consider approving budget amendment appropriating Electric Fund balance in the amount of \$450,000 for the contract to remove AT&T aerial cables from Gilead Road. (*David Lucore/Pattie McGinnis*)

11. Closing Comments

12. Adjourn

General Meeting Information

Town Board:

The Town of Huntersville Mayor and Board of Commissioners are elected for two-year terms. Huntersville operates under the council-manager form of government, which establishes the Town's policies that are carried out by the Town Manager and staff. For more information, visit www.huntersville.org.

Meeting Time, Place and Agenda:

All meetings of the Board are open to the public and the public is invited and encouraged to attend. The Board meets in the Town Hall at 6:00 p.m. on the first and third Tuesday of each month (unless otherwise posted). Agendas are published Thursdays before the meeting on our website. The Board reserves the right to deviate from the agenda.

Public Comment and Public Hearing Policy:

Persons desiring to address the Board during the public comment period or a public hearing shall sign up via the speaker sign-up sheet prior to the beginning of the meeting. Once the meeting has begun, a person may not sign up to speak. Persons who have signed up to speak shall be allowed to speak for up to three (3) minutes. The Mayor shall have the discretion to shorten the allotted speaking time depending on the number persons registered to speak and in consideration of the length of the agenda. ([Public Comment and Public Hearing Policy - Amended February 19, 2024](#))

Special Accommodations:

Please contact the Town Clerk, 72 hours prior to the meeting, for special accommodations to attend this meeting and/or if this information is needed in an alternative format. Janet Pierson can be reached at clerk@huntersville.org or 704-875-6541.



A PROCLAMATION FOR CONSTITUTION WEEK

WHEREAS, September 17, 2024 marks the two hundred and thirty-seventh anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to read, study, and preach the greatest document of human liberty and to protect the freedoms set forth in the Bill of Rights; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

WHEREAS, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim September 17 through 23 as "**CONSTITUTION WEEK**" in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 17th day of September, 2024.

Christy Clark, Mayor



A PROCLAMATION FOR WORLD PEACE DAY

WHEREAS, Rotary as a humanitarian organization, peace is a cornerstone of our mission. We believe when people work to create peace in their communities, that change can have a global effect; and

WHEREAS, Rotary creates environments of peace by carrying out service projects and supporting peace fellowships and scholarships, our members take action to address the underlying causes of conflict, including poverty, discrimination, ethnic tension, lack of access to education, and unequal distribution of resources; and

WHEREAS, the issue of peace embraces the deepest hopes of all peoples and remains humanity's guiding inspiration; and

WHEREAS, in 1981 the United Nations proclaimed the International Day of Peace be "devoted to commemorating and strengthening the ideals of peace both within and among all nations and peoples"; and

WHEREAS, the United Nations expanded the observance of the International Day of Peace in 2001 to include the call for a day of global ceasefire and non-violence, and invited all nations and people to honor a cessation of hostilities for the duration of the Day; and

WHEREAS, there is growing support within our nation for the observance of the International Day of Peace, which affirms a vision of our world at peace, and fosters cooperation between individuals, organizations and nations; and

WHEREAS, global crises impel all citizens to work toward converting humanity's noblest aspirations for world peace into a practical reality for future generations; and

WHEREAS, the Rotary Club of Lake Norman-Huntersville, is one of over 60+ Rotary and Rotaract clubs throughout our Rotary District 7680 with over 2,300 members sponsoring service projects to address such critical issues as poverty, health, hunger, illiteracy, and the environment in their local communities, and abroad.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim September 21 as "**WORLD PEACE DAY**" in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 17th day of September, 2024.

Christy Clark, Mayor



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Janet Pierson, Town Clerk

Subject: Approval of Minutes

EXPLAIN REQUEST:

Consider approving the minutes of the September 3, 2024 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve Minutes

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Draft Minutes

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**September 3, 2024
6:00 p.m. – Huntersville Town Hall
101 Huntersville-Concord Road**

PRE-MEETING

None

**REGULAR MEETING
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall, 101 Huntersville-Concord Road, at 6:00 p.m. on September 3, 2024.

GOVERNING BODY MEMBERS PRESENT: Mayor Christy Clark; Commissioners Alisia Bergsman, Amanda Dumas, Jennifer Hunt, Edwin Quarles, LaToya Rivers and Nick Walsh.

Mayor Clark called for a moment of silence in remembrance of 9/11.

Mayor Clark led the Pledge of Allegiance.

ANNOUNCEMENTS

Huntersville Police Department Updates

- Citizen's Police Academy begins September 17.
- National Night Out is October 1.
- Johnathon Tolley was promoted to Sergeant.
- HPD's newest officers are Dylan Hartness and Chandler Cochrane.

Holbrook Park Tree Survey Update

- As part of proposed Holbrook Park parking lot expansion, the Town is conducting a tree survey of the site.
- Any proposed parking lot expansion will not impact the playground and no trees will be removed near the playground.
- Park patrons will see many large trees in the park with pink ribbons around them. Those ribbons are to identify certain size trees and do not mean those trees will be removed.
- Since this project is in the early stages, there is not yet a firm number for how many trees will be removed. The Town will continue to plant trees each fall in park areas where many large trees are coming to the end of their life cycle, including in Holbrook Park.

Ways to connect with us – website, social media pages, newsletter, Town of Huntersville app.

PUBLIC COMMENTS, REQUESTS OR PRESENTATIONS

Erin Katzner, President and CEO, provided update on the Carolina Raptor Center. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

Commissioner Walsh said you mentioned when you release the birds. Where do you release them?

Ms. Katzner said we release them all over the place and it really depends. If a bird comes in and whoever found that bird has an interest in releasing it, then we will work with them to release it back at the location where we found the bird, but if there's somebody who wants to do a special event or wants to do a special release, then we will work with you to do that, too. If there's ever an opportunity that Huntersville wants to do a bird release as part of an event that you guys are doing, we would be happy to bring a bird for that. It's a great celebration.

Commissioner Hunt said what if someone finds an injured raptor, what can they do?

Ms. Katzner said if you find an injured raptor, you can call us. Our number is on our website on the front page and we can either walk you through how to capture it and put it in a box and bring it to us or we also have a team of volunteers who we call our transport volunteers and they go out all over the region and will scoop up the bird, put it in a box and bring it to us so that you don't have to worry about the talons and the beaks.

Commissioner Hunt said you have a digital way to keep track of the bird, too, right?

Ms. Katzner said we have a program that was founded at the Raptor Hospital by our former veterinarian, Dr. David Scott, called Raptor Med and he founded this program so that we could track all the health and care for all of our birds. When you find a raptor in the wild, we give you a number. That number you can go in and enter it into our website and you can see all the care that your bird has been provided throughout the time that it's with us at Raptor Hospital, which is great because you can see what it's fed every day, you can see the x-rays, you can see literally everything about that bird and kind of track its prognosis over time and my favorite part of it is there's a donate button so it tells you how much the bird's care has cost us.

Commissioner Bergsman said the only time in my life I've ever dealt with an injured raptor, I was luckily living here in Huntersville when one came to our backyard, so we've been through that experience in the past of catching it and being able to see on the website, you could see the x-rays and all of the information and to be able to release it back where it was found, so I love all the work that you do. You mentioned that you have 16,000 volunteers.

Ms. Katzner said 16,000 hours volunteered.

Commissioner Bergsman said with it being the start of the school year and a lot of students needing community service hours, can you just talk briefly about if anyone's listening that wants to volunteer and they are a minor, kind of what opportunities there are.

Ms. Katzner said since we do work with talons and beaks, we do require that minors have an adult partner that they volunteer with just so that we can make sure that everybody is staying nice and safe,

but we do accept volunteers that are under 18 if they are paired up with a parent or grandparent or somebody else who is an adult that has approval to work with them.

Commissioner Dumas said Commissioner Hunt asked about if you find a raptor and what the process for that is. But how do I know if it's a raptor?

Ms. Katzner said in general the raptors that we have in this area are hawks, eagles, owls, falcons, vultures and ospreys. Ospreys are kind of odd balls that are like in their own little thing, but we love them and we have tons of them around here thanks in large part to the conservation organizations that have worked so hard to clean up the lakes and rivers in our area. Those are the raptors that you are going to find in this area, but if you find any injured wildlife at all you can always call us and we will point you in the right direction. If it's not a raptor, we'll help you figure out what it is and get it to the right type of rehab center.

Mayor Clark proclaimed September 11, 2024 as Patriot Day.

A PROCLAMATION FOR PATRIOT DAY

WHEREAS, this 11th of September marks 23 years since the unconscionable attacks of September 11, 2001 claimed nearly 3,000 lives and irrevocably changed our world; and

WHEREAS, every year since, we have observed this somber anniversary as Patriot Day to remember those we lost and honor the courageous first responders and men and women from all walks of life who took action to protect their fellow Americans; and

WHEREAS, as we reflect on the past 23 years, we also commemorate the service members who answered our nation's call in the aftermath of the attacks. We will never forget their sacrifices to protect our cherished freedoms and way of life; and

WHEREAS, on this day of remembrance, let us pay tribute to the American heroes we've lost and recommit to the values of equality, opportunity and freedom our nation stands for.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim September 11 as "**PATRIOT DAY**" in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 3rd day of September, 2024.

Mayor Clark proclaimed September 8-14, 2024 as Suicide Prevention Week.

A PROCLAMATION FOR SUICIDE PREVENTION WEEK

WHEREAS, with September being recognized as "Suicide Awareness Month," the National Suicide Prevention & Action Month Proclamation was created to raise the visibility of mental health and proactive suicide prevention resources in our community; and

WHEREAS, according to the American Foundation for Suicide Prevention (A.F.S.P.), more than 49,000 people die by suicide annually in the United States; and

WHEREAS, according to Hope for the Day (H.F.T.D.), with an average of 132 suicides completed daily and each one directly impacting 100 additional people, including friends, service members, family, social media connections, and neighbors, we can safely assume everyone has been impacted by suicide; and

WHEREAS, the Town of Huntersville publicly places its full support behind those who work in the field of mental health, education, and law enforcement; and

WHEREAS, We encourage all residents to take time to understand mental health through education and recognize that we need to take care of our mental health while we take care of each other.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim September 8 through 14 as "**SUICIDE PREVENTION WEEK**" in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 3rd day of September, 2024.

Daphne VanMeter said I'm going to be talking about deforestation. It really bothers me because whenever they cut down trees, they give us less oxygen to breathe and one day there's going to be no trees, which means no oxygen, just because of people who wanted to expand parking lots, build more churches and more banks and plus the animals won't have anywhere to live or hide from animals like predators and predators won't be able to hide from their own predators. We also won't be able to have any food such as fruit, vegetables and other plants that we can eat. It just really bothers me that they cut down trees. I also like the smell of some trees like pine trees and I also like blossom trees and sometimes even if they deserve to be cut down, like if they are in the way of something, don't cut them down because what if a beehive was living there and you just cut down a bee's home, now they need to find somewhere else to rebuild all their hard work.

Stacey Ash said I've been living in the Huntersville area for 20 years. I love the area and really, honestly, what has been done here recently with all the parks, I mean exceptional job and it makes me so proud to be a part of Huntersville.

I have been blessed in my travels that I was able to go ahead and this year and 2023 hike the Appalachian Trail from Georgia to Maine, so I got to see some amazing places and everyone was like hey, what state did you love most and North Carolina, of course, and I especially love North Carolina and I am living in Huntersville. The Police Department, the parks, the greenways, I mean I just can't speak enough about it.

I can also tell you that I am an educator and I have been working with children and families for 20 plus years and I have an organization that I founded in 2020 called the Children's Nature Community and basically what that is, is that I felt like children needed the opportunity to be outside more. I studied the Reggio Emilia philosophy in Italy, I've been to Germany and observed forest schools and to me children need to be outside.

With the Village Nature Community, I started it. It's a very organic group. I don't get any return for it. It's just that I'm passionate about children, I'm passionate about nature. I started the group in 2020. Today I have over 4,000 families. The group was growing so fast I have 11 administrators for the page. We orchestrate meeting up every day to support families and children in the area.

Holbrook Park, my son he's in grad school right now, and we went to that park and so now looking at that park, the changes that have been done are outstanding, but the thought of any trees, I just think that there's.....I know that there's a natural progression and we do need to go ahead, but mature trees and children, I mean the whole business park is pretty much gone and that was a place that we would typically go. We'd ride our bikes and it's not a place that we go anymore. I know that we are concerned about we need to have the parking and we've been going around to the brewery parking and walking on. I just think that we need to rethink how that we can be intentional about saving some of the trees and the pavilion because I mean, to me, and coming fresh off the trail and you know like children need this opportunity so that they can go ahead and be in nature.

AGENDA CHANGES

Commissioner Bergsman made a motion to adopt the agenda.

Commissioner Dumas seconded the motion.

Motion carried unanimously.

CONSENT AGENDA

Approval of Minutes – August 6, 2024. Commissioner Rivers made a motion to approve the minutes of the August 6, 2024, Regular Town Board Meeting. Commissioner Bergsman seconded the motion. Motion carried unanimously.

Approval of Minutes – August 20, 2024. Commissioner Rivers made a motion to approve the minutes of the August 20, 2024, Regular Town Board Meeting. Commissioner Bergsman seconded the motion. Motion carried unanimously.

Highway 21 Electric Feeder Project Contract. Staff solicited formal bids for construction services for the Highway 21 Electric Feeder Project. Lamberts Cable Splicing, LLC was the lowest responsible bidder.

Commissioner Rivers made a motion to approve contract for Highway 21 Electric Feeder Project. Commissioner Bergsman seconded the motion. Motion carried unanimously.

Contract attached hereto as Exhibit No. 2.

Budget Amendment – Dellwood Center. Commissioner Rivers made a motion to approve budget amendment appropriating General Fund balance in the amount of \$200,000 for Dellwood Center building renovations. Commissioner Bergsman seconded the motion. Motion carried unanimously.

Call for Public Hearing – Petition #TA24-14. Commissioner Rivers made a motion to call a public hearing for Tuesday, October 1, 2024, at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road, Huntersville, NC 28078 on Petition #TA24-14, a request by the Town of Huntersville Planning Department to amend Article 153, Sections 2, 3, 4, 10, 11, and 13 of the Code of Ordinances to ensure compliance with state statute.

PUBLIC HEARINGS

None

OTHER BUSINESS

Budget Amendment – Purchase of 14703 N. Old Statesville Road. Anthony Roberts, Town Manager, said first I'll explain a little bit about the grant and then a little bit about Cashion's.

The grant we received came out of House Bill 259 back in 2023. Representative Bradford at the time was able to secure some funds for Huntersville - \$3,000,000 was associated with capital and equipment, and then \$200,000 was associated with the Fire Department. Typically with grants, there's a deadline that you have to use those funds. We received the actual funds in January 2024. The deadline to use those funds is October 2025.

A little bit further on the grant funds, at the second meeting in February of this year we used a portion of the \$3,000,000 that was for capital and equipment for the roundabout improvements. I think it was \$500,000 that we used that went towards those roundabout improvements. That's going to start in the

fall, so very soon you'll see plantings, some rock walls, etc., within the northern and southern roundabout. We used a portion of those funds, so that left \$2,500,000. The \$200,000 we've already used for bringing over the Fire Department in-house.

Now jump into obviously this budget amendment here, you could use the \$2,500,000, that's what we are proposing to use it for, you could say I don't want to use those for that, we'll use it for some other project between now and October and you could take that out of General Fund balance if you so choose. But staff has chatted and said that deadline is approaching, and this seems like a good project to use it for.

The Cashion's property, which is across the street, we have been working with the Cashion family representative Gordon Cashion. I don't know how many times I've talked to him, probably 20 over this period, so we've been working with the family. We haven't forced them to sell the property, we haven't condemned the property, we haven't done any of that. As you know through this process with the new town hall, one of the things the TIA came out as something that we have to look at is potentially putting in a turn-lane which goes in front of that store. That's a decision we still have to come back at some point in time and make a decision on. So far the process, if we continue to move forward with purchase of Cashion's property, is looking at a turn-lane which will get quite a bit of distance over into that property, so I just want to set that out.

Where have we gone so far. Obviously, we have come before the Board for a contract. The Board approved moving forward with the contract. We are doing our due diligence. Obviously, I can't take it any further. We have to have funds to be able to purchase the property. The action before you tonight is to be able to ask the Board to consider moving forward with a budget amendment to allow us to move forward with that purchase.

We're still doing due diligence. We've done a Phase 1, a Phase 2, like you would do on any piece of property. We did a Phase 1 and a Phase 2 actually on the property beside Cashion's when we purchased it. There used to be a house on there where the greenway entrance comes out on 115. Same thing, a Phase 1/Phase 2 there. I actually did a Phase 1/Phase 2 on the property right here where town hall is going. Anytime you are near a gas station, that's just good business to do that. I think we actually did a Phase 1/Phase 2 on the grass strip which is across the street. I know we did some core sample drills there. I'm not sure if it was a Phase 2, but definitely a Phase 1. I'm pretty sure it was a Phase 2.

We have done a Phase 2 on Cashion's. We've done core samplings. We are doing a few more samples, if I'm standing on 115 looking at the building on the right side closest to the park, a few more little core samplings there. I think we got some of that data back today that just said it looks pretty good. We found a little bit of elevated benzene in a little small area on the right side of the property, so the reason we decided to do a couple more core drillings is just to hone in on that area and tighten it up so that if we need to do some remediation, we'll be able to do that.

In this dollar amount you see before you, the \$2,500,000, the purchase price for the property is \$2,300,000. The other \$200,000 is for closing costs and any type of mitigation and clean-up that is needed. If there's mitigation and clean-up needed, there's also access superfund dollars. We work with Hart & Hickman. Hart & Hickman is doing the soil testing there.

I know I've rambled a lot and tried to give you and the public as much information as possible, but we've been talking about Cashion's for some time. We talked about any project that you do in the downtown area, we do or a developer does, is going to affect this intersection unless it's maybe a hotdog stand, but

other than that if it's a building of any magnitude, same thing on the green strip over here in front of DPK and the parking deck, it will require a TIA if it's of any significant size that's going to affect that intersection. There will be ramifications on that intersection that will most likely require a turn-lane on the Cashion's property.

We've been in discussions with the Cashion family through Gordon Cashion. They're comfortable with the process that we're moving forward. We've been very open the whole way. They've been great to work with, so what I ask you tonight is to consider this budget amendment to move this process forward and assuming all goes well, we would look to close mid-September. We are working with the family on that date, possibly as early as September 16.....somewhere September 16th probably through the 18th is my guess right now, but we will continue to work with the family to make that happen.

Commissioner Dumas said we are doing all the soil testing. I think that's what I've heard most about is we want to make sure that the soil is something we can actually build on. It sounds like we're doing all that testing. If we approve today and we move forward and then we continue to do the testing and have those discussions and we find something after we approve today. What then?

Mr. Roberts said as part of our due diligence we will not close on it. If we come back and find out that we find some bad stuff and let's say it's \$500,000 or whatever, we would not close. We would stop that, come back have more discussion with the Board and the property owner and see where we'd go from there. But we will not close if we find more details that cause us to go above this \$2,500,000.

Commissioner Rivers said you stated that the expected closing date is mid-September. Is that what I'm understanding?

Mr. Roberts said yes ma'am. The last conversation I had with Gordon we were looking at somewhere between the 16th and 19th.

Commissioner Rivers said in doing the due diligence, how long does it take for the due diligence process. If you find something, how long does that take to come back?

Mr. Roberts said we already have the Phase 2 findings and the report, so we know what the Phase 2 findings said. They found some elevated benzene, so from there let's just say the benzene was in this paper, so our goal was to try to see how small of an area is the benzene in. The other core drillings that we just got, I think we got the information today, they looked good and hone that area into a smaller spot. I know that's simplistic, but that's the way I can explain it. I'm no soil scientist, but that's what we are doing, and we have just received an email on that that sounds good, but we will make sure we get the full report. We've already had conversations with Hart & Hickman and Gordon. We'll have more conversations with Hart & Hickman and Gordon and hone in on how big of an area and then if superfund dollars are.....we already have lined up if we need superfund dollars. There's forms you have to fill out. You have to close down tanks and we'll be pulling the tanks out of the ground. All of that is part of that cost to pull the tanks out, clean up whatever is there and kind of wipe out everything that's above ground and seed it back in grass, that's kind of the short version.

Commissioner Dumas said I've lost my train of thought. It had something to do with the process afterwards. We've talked from the dais about doing an RFP that we plan to do. Would it be possible that we sell this parcel to the person that we pick for the RFP. What does that \$2,500,000 end up looking like in the future?

Mr. Roberts said assuming we close on the property and clean-up the property, we are actually going through a similar process, not a clean-up process, but a similar process across the street. Bobby had submitted me a draft RFP to look at over the weekend. I just started looking at that today with a bunch of attachments of data of what we know about the land and all that, from studies if we had downtown studies and things like that, you attach it to let folks that are interested know of all the different things we've got going on associated with that property.

Very similar what would happen is we'd put some type of, and this is kind of what we did for 760 Craft Works.....folks who are not familiar, that building was owned by the Town. The Police used to be housed in it. Obviously, they outgrew that building and one of the things that we looked at which was a little bit different for the Town, how could we try to create some activity downtown and so we went through an RFP process and as a part of that RFP process we put some conditions on the property. We just didn't put it out there and say it's for sale and you do whatever is a use by right or rezone it, etc. We wanted to make sure that when we sold it that it was a use and a purpose that the board wanted downtown that kind of generated activity.

That's how we did that process for 760 Craft Works, and of course they took the building and gutted it for the most part and created what you see there now. Then we created some cross-parking easements. Just to let everyone know, the parking at 760 is public parking also, so he could not go and just put up signs and say this is only for the brewery. There are cross-parking easements on that so that we can use that entire parking lot except for I think it's 6, 7, 8 parking spaces right behind the building, like right up against the building. Those are for private use, but all the other can be used for public space, so as we grow downtown, we need to get creative on how we add parking spaces and that's just been finalized probably we'll just say in the last month. We had some originally on the original portion of that building and then we created more.

The same process as 760 is similar to the same process we'll do on the grass strip that will probably come to you first and then we'll probably move over here to Cashion's and do a similar process. If for whatever reason you don't like that process and we didn't want to just sell it outright with restrictions, there's all sorts of different ways you could do that, and we would get our attorneys involved. You literally could own the property and build a project on it and lease it, but there's many different ways you can do it. That's the process that we have done at least once and may look at doing twice, but a future board would have to make that decision on what process, but it would be an RFP most likely, not just an outright sell because we want to make sure we get something that is beneficial to downtown.

Commissioner Bergsman said while we are talking about RFP's, is one of the things that you can restrict in that RFP something like residential, if you didn't want any residential on a property.

Mr. Roberts said absolutely. You can restrict it to whatever you want. You own the property. At the end of the day when you put out that RFP if we said we just want multi-family, you could do that. If we want commercial, no residential, or we want a mixed-use, all of the above, so while you own the property you can put whatever restriction you want on it.

Commissioner Bergsman said you mentioned a few times talking about the mitigation, the possibility of superfund dollars. Can you explain what that means?

Mr. Roberts said for clean-up, we'll just use gas stations.....so a gas station if they have some contamination of soil, there are superfund dollars that are out there through state and/or federal government that you can use to help clean-up sites. They monitor these sites. They're typically on

websites to show where these sites are, where gas stations are, etc. or contaminated sites. There are dollars out there to help with what they call clean-up and you have access to those and we've been talking to Hart & Hickman about that, so there are forms that you fill out when you shut down a gas station and we've been working with Gordon on that. You have to close the tanks. Obviously, he's drained the tanks, pumped all the gas out of the tanks. To be able to remove the tanks, there's a process, a time period for closing, all those type of things you have to work through, so we've been working with Gordon on that. He's been filling out whatever necessary forms that he needs to do that and so superfund dollars are clean-up dollars.

Commissioner Quarles made a motion that we approve budget amendment appropriating NC Office of Budget Management Grant 11982 in the amount of \$2,500,000 to various expense accounts for the purchase, mitigation and related closing costs for 0.350 acres located at 14703 N. Old Statesville Road, Huntersville, NC 28078.

Commissioner Hunt seconded the motion.

Mayor Clark said I just want to thank our Town Manager, Anthony Roberts, for working so hard on this project and bringing it hopefully closer to its conclusion.

Mayor Clark called for the vote.

Motion carried unanimously

Resolution – Support Legislation Authorizing Referendum on Additional Sales Tax. Anthony Roberts, Town Manager, said I'm sure there's going to be a lot of history on this and information, so I'm probably going to be long-winded because this took a long time to get here. I'm going to do my best not to go through every detail in the legislation, but the action before you tonight is to consider a Resolution of support for the legislation to be able to move forward. I'm going to give sort of a highlight of what's in the legislation from a Huntersville standpoint. We can get into the weeds, but I'll try to tackle like obviously the Red Line and transportation dollars and things like that.

I'm going to start there and then maybe give you a little bit of how the process could potentially move forward because I'm sure folks will be interested in that and then ask any questions you would like. I do have an attorney in the back of the room, Larry Shaheen, who has worked with the business community, the legislators, in helping craft this legislation, he and a team of other attorneys, so if you get too far in the weeds or too legal on me, I'll probably have to pull him up here to help me out.

In this legislation there are a couple of things what I would say kind of how it affects Huntersville and the priorities. In your package you have a Request for Board Action that was submitted. You have the legislation, and you also have an explanation of sort of the key points in the legislation that's also attached as part of it. Hopefully citizens can look at all that information and be able to grasp whatever information they need out of that. What I would say is in this document citizens will have the right to vote on the referendum on the sales tax that will determine the road network and our transportation future. Also in this legislation, there's a section in the legislation that is key, that allows transportation funds to come back to the town. In this legislation when working with Raleigh.....the folks in Raleigh have to pass the legislation if it moves forward, and one of the things that came out of Raleigh when we were working on this legislation was there needs to be transportation dollars. We want funds to go towards roads, not just rail, not just bus, so you'll see a section in the legislation that talks about 40 percent rail, 20 bus, 40 roads. I'm being simplistic.

There's also another section in the legislation outside of just the 40 percent road funds that would come back to Huntersville. There's a piece in there that also addresses where the towns get a portion of Charlotte's dollars also, so it's more like 50 percent of the dollars come back to Huntersville, so ultimately what is that impact. That impact I'd say the least is roughly \$10,000,000 on an annual basis that will come back for road transportation purposes. High side of that on an annual basis probably \$12,000,000. There's a formula in the legislation that calculates how that is for all the towns and how you calculate that. So that language is in here. I think the other key point in here that anybody that has followed the Red Line.....actually I've been on the MTC I think since 2001 and the Red Line was talked about way back then and never got close. One of the key factors there is Norfolk Southern owned the railroad right-of-way. As you probably have seen in the news, Charlotte is actually voting tonight to move forward with that purchase. In that purchase, they would purchase from Gateway Downtown to the Mecklenburg County line and there would be an option for the portion in Iredell County, but they would be purchasing from Downtown Gateway all the way out to Mecklenburg County line there in Davidson and then a potential option on the other.

Regardless of this legislation, Charlotte is moving forward with the purchase. The City of Charlotte is moving forward with that purchase tonight if they vote on that, so that is moving forward. This legislation is not going to be adopted tonight because there are many towns that have to adopt resolutions and it has to go to Raleigh. Key Point No. 1 is Charlotte buying the right-of-way. We've never had that opportunity, so the Red Line was dead in the water from the get go if you didn't have the right-of-way. They never had that agreement. That is Key Point No. 1, regardless of this legislation, is having that allows you to move forward with the Red Line.

Another thing in the legislation, Section 4.9 sort of gets into and says the Authority shall complete at least 50% of the Red Line before any other rail project is completed absent the existence of any event beyond the control of the Authority that delays the completion or makes completion impossible. Once the event that caused the delay no longer exists, the Authority must resume work on the Red Line. The northern towns, as we were working through this legislation, wanted to make sure we didn't want to be back in 2001. Red Line is No. 1. First thing is purchase the line, and that's what Charlotte is moving forward with tonight. That was Key No. 1. No. 2 is how do we continue to impress why Red Line is No. 1. We put language that the attorneys helped draft in the legislation that helps sort of move that along. And then there are other bullet points in here about with the Authority that basically they must solicit input from the northern towns as they continue to work through the process on the Red Line and details on the Red Line and then also the Authority or if the legislation doesn't pass, Charlotte buys the line tonight then ultimately it's the City of Charlotte would get reimbursed for that either through the current MTC structure and/or through an Authority if the legislation moves forward. There are a lot of factors in this legislation. Also, if it goes through in its current wording, the MTC would basically transfer over all those assets etc. to a Metropolitan Public Transportation Authority, so it would become an Authority with a different voting structure etc.

I could go on and on in details and I'm sure Larry could, too. You don't want to go through changes of definitions and things like that within the legislation, but those are the key points in the legislation. What I would say if you adopt a resolution tonight, like I say I think Pineville.....the only town that has adopted it that I'm aware of so far is Cornelius. Charlotte is looking at it tonight, and then there are other towns Davidson and Pineville etc. Matthews is not going to adopt a resolution in support. I think you all are aware of that. You've seen it in the news. I've told you they will not support this.

If the Board moves forward with this Resolution, then ultimately what Larry and his team will do after we sort of get all those resolutions, they will go meet with the legislators. Obviously, you know they're not meeting every day now. There are certain days that they'll be meeting and their team and the business community will try to move this legislation forward. I don't know, I would not bet a dollar tonight that this legislation is going to move forward right now and be approved and it's that simple. I wouldn't bet a dollar on that yet because time is of the essence, you know legislation is not going to stay there forever and Mayor Christy could tell us all about it because she was in Raleigh, and so she could tell you that.

I'm not going to sit here and tell you that the wording that you see in this legislation is going to be the exact a, an, and the that gets adopted and it can go to Raleigh and you know it can turn into maybe some pieces of sausage, I don't know. But if it goes to Raleigh and it's adopted, what comes out of that is ultimately Mecklenburg County after the legislation is adopted would consider putting a sales tax on a referendum or a ballot for the citizens to vote on. Probably the earliest that could happen is November of 2025. If the citizens approve that, what I would say the earliest that Huntersville would probably see those transportation dollars is 2026.

When is the earliest we could possibly see something working on the Red Line, an actual I'll just say a train, I don't know it's probably some of the questions is it diesel, is it electric, is it etc. They haven't determined that yet. I know back in the early 2000's they kept saying diesel, but as they move through the planning process in figuring this out, they will determine what type of train moves up and the intervals, how fast, all those kinds of things, where the stations are, they are doing those planning efforts now. What I would say is the earliest, and this is the earliest that something could be moving on that track besides me walking up and down it, is 7 to 10 years at best. That's just my guess. Obviously, that's not worth a dollar, but they have to go through that process.

Hopefully I hit all the highlights for you. I tried to kind of hit all over the questions I think that you may ask. I will be quiet and let you ask questions.

Commissioner Dumas said by your own words you were long winded, so I just want to point out to one important area, well it's all important, but one specific area about what's preventing what happened with the last tax increase that didn't really benefit our area, but we paid into it. What's preventing that from happening again? You spoke about a part that's in the legislation.

Mr. Roberts said the two things that advances the Red Line is purchasing the Red Line, purchasing the right-of-way. That allows it to advance. That's a key. If that didn't happen, I wouldn't have any faith. Two, the legislation has some of the parameters of 50 percent that I mentioned earlier, so those help. I cannot sit here and say it is 100 percent guaranteed that the Red Line is going to happen. I can't guarantee you that. Going through this process could things happen, yes, so I can't 100 percent guarantee it, but I can tell you that we're closer than ever before and the key is buying the right-of-way. It's a show-stopper. If you do not have that, and that is moving forward regardless assuming Charlotte moves forward tonight, and they have all intentions of doing that based on the many meetings we've been in. I don't know how long we've been talking about this, but a long time.

Commissioner Dumas said let's say the Red Line doesn't happen. In the legislation we'd still have that part that you mentioned now a couple of times that talks specifically about how we will still get invested in our roads in Huntersville and a significant amount which frees up some of our money to be able to do other valuable things for our town or to catch up with the traffic issues and the road issues.

Mr. Roberts said absolutely. Just to give you an idea and to piggyback on it, just from a paving standpoint just to give you an idea, 6 to 8 miles of resurfacing throughout neighborhoods, we'll just go with a \$1,500,000 dollars. That changes obviously with oil prices, etc. That kind of gives you an idea of what \$10 million annually would do or \$12 million annually and that most likely will grow based on what has happened previously. There are some times that it's sort of flat but for the most part in Huntersville, because it's a popular place to, shop, eat, etc. and people move here, that number tends to go up so that just kind of gives you a magnitude of that number in relation to it. I'm not going to sit here and guarantee you 100 percent that yes the Red Line is a done deal, it's happening. If they purchase it, that is key.

Commissioner Bergsman said while the Red Line, if all of this proceeds as we think it may, is still quite a while out. We would start receiving kind of revenue that approximate \$10 to 12 million long before that, right?

Mr. Roberts said that is correct.

Commissioner Bergsman said if it was on the ballot in November 2025, would that be 2026/2027.

Mr. Roberts said 2026 is what we are looking at to start receiving some of those funds.

Commissioner Bergsman said for the portion for roads that we're talking about here. It sounds like that also includes things like resurfacing, maintenance. Does it include that or only new projects?

Mr. Roberts it has some language in here that we can use it for road associated projects, so it's not new paving, it's not just resurfacing, so there's some stipulations around that, but yes we can use it for any type of road projects, sidewalks etc.

Mr. Roberts said I would just ask Larry – Larry, anything I've said wrong or you want to correct me.

Larry Shaheen said on behalf of the Charlotte Regional Business Alliance, which is who I work with as their attorney at the McIntosh Law Firm, we just want to thank Anthony. I cannot tell you how often I was so grateful to have him and his experience in the room with the other seven managers. We had a lot of different opportunities to talk through all this. There's been a lot of compromise that took place. There's been a lot of discussion among everyone that could possibly weigh in on this, but tonight it looks like if our vote count is correct, which I'm actually going to leave here as soon as you all vote and go right to Charlotte, if our vote count is right, we're buying the Red Line tonight. And for those of you that have been in this community as long as I have, I've been here since I was a half year old in 1984. This community made a promise to itself in 1997 to build the Red Line. It hasn't happened yet. And every single member of North Mecklenburg has paid taxes on that up to this point. When the northern communities came together to say you're going to buy the Red Line and you're going to build it or you're not going to get anything to the rest of this county, that was a strong position that the managers made and they were all adamant about that because if they hadn't, I don't think this community would have this opportunity to invest in itself. For those of you that know about Pennies for Progress, York County was the only other county around here regionally that has ever done anything this ambitious and you can see what that's done for them. There's nothing that Anthony said that's incorrect. I just wanted to come up here and brag on him. You and I have been friends and known each other since you were at Cornelius and I started out as a young child lawyer running around working on stuff. It's been fun to get the opportunity to work on this with you and I wanted to give you the opportunity to be bragged on in front of your Board for everything you've done. I'm grateful to him and of course to you all for this

opportunity. He's completely right, this is far from over. This is a Step 5 in Step 40.....40 steps of how this will happen, but I know that the businesses of your community couldn't be more grateful for your support and for helping to realize a dream that many of them have had for almost 30 years.

Commissioner Walsh said I've lived here for 32 years and I think we all know that we're not going to be able to pave our way out of the current congestion. You simply can't keep adding lanes to I-77 or any of our other roads, so the Red Line is going to be a game changer up here, so obviously I'll be supporting it. It's another mass transit opportunity and obviously we'll continue to look at non-motorized opportunities and then the \$10 million coming each year to Huntersville is going to be great.

Commissioner Rivers said I understand that this has been talked about for many years and I know that it's coming. I just want to ensure that as the Red Line proceeds and the process progresses, I want to make sure that the Town of Huntersville itself creates an anti-displacement agreement to ensure that those that are directly affected are protected. I'm not sure of the exact design, but I know that besides the double tracks which could cause displacement, I know there are other factors, so I would like to encourage the Town of Huntersville to create an anti-displacement agreement just like the City of Charlotte has created one. Theirs was created back in June 2023, so I just want to be mindful of that.

Commissioner Quarles said I want to say that I'm excited about this. I'm very excited about the economic impact it's going to do to our town. As we look at revitalizing our downtown, this is going to bring many people to the great city of Huntersville and then also the environmental reasons....getting vehicles off the road. I travel up and down 77 and I take advantage of the express lane, but to see how the congestion, the bottleneck is, so again this right here is going to make a huge difference and I'm looking forward and excited to make this vote.

Commissioner Bergsman said in earlier discussions we were understandably cautious – weary of false promises, similar to what occurred in the past 25 years. I know when I moved here back in 2011, that was a topic of discussion then and it's been going on ever since of not having a Red Line and not having it supported by Charlotte. I want to commend Anthony and the other North Meck town managers for their diligent work in securing the protections in this legislation that our community deserves. You've shown us what effective leadership looks like. This legislation addresses one of our community's top concerns, our roads, and does so in a way that can help alleviate the burden on our property tax base while also accelerating much needed improvements that benefit everyone. It also helps guarantee delivery of the Red Line project with firm guidelines and protections in place, a mark contrast to the last time. Most importantly, I absolutely support this Resolution because it puts the power in the hands of our citizens to voice their opinion through a ballot referendum ensuring your voices are heard on issues that matter most to them and I just want to reinforce that last point that we are having this discussion and voting on a Resolution, we are not voting tonight on a sales tax increase. We're voting to put that decision in the hands of the people, and I hope people will get out and vote whenever it's on the ballot if it makes it there.

Commissioner Hunt said I just wanted to echo my support for this as well. We've had a number of emails in support of this. People are hoping that we take this step today. It is important for us to try to ease the traffic congestion, which we all know is problematic. It helps to protect the environment by getting cars off the road, creates a lot of economic opportunity here in Huntersville, and then it also helps to improve transportation opportunities for individuals who don't have cars, so to me it sounds like a really important step here that we need to take.

Mayor Clark said before we make our motion for this, I also want to add one thing which is an important part of the legislation, something near and dear to my heart, which is the creation of a Transportation Authority which brings a little more power and say for the small towns surrounding Charlotte. As we consider transportation projects, it will give us a little bit louder voice. It won't give as much of a voice as I really wish we had, but it will help us get closer to having a bigger voice on transportation projects and not being overrun by the City of Charlotte, and so I appreciate that has been added to the legislation.

Commissioner Dumas said right before I make my motion, I'm just going to read a couple of the notes that we got from emails this week because this was one, as Commissioner Hunt said, that we received a lot of emails on and I promise you I read my emails but you're not hearing from me this week again, I'm sorry. I heard that it would be an abdication of duty because this opportunity won't come up again and we heard it from our own Manager, time is of the essence. The legislation won't be there forever. And then that this would help lower inequities by improving access to jobs, grocery stores, medical appointments and more; help address the climate crisis by removing cars from the road, reduce traffic fatalities and serious injuries by building streets that are safe for all; provide equitable and affordable transportation choices so more people can walk, bike and ride public transit to their daily destinations; reduce time spent sitting in traffic by providing more efficient ways of getting around and improve our health by reducing air pollution. I thought that email did a great job of summing it all up.

Commissioner Dumas made a motion to adopt the Resolution in support of legislation authorizing referendum on additional sales tax for further investment in roadway and public transportation systems.

Commissioner Walsh seconded the motion.

Mayor Clark called for the vote.

Motion carried unanimously.

CLOSING COMMENTS

None

There being no further business, Commissioner Walsh made a motion to adjourn. Commissioner Rivers seconded the motion. Motion carried unanimously.

Approved this the _____ day of _____, 2024.



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Michael Jaycocks, Director of Parks and Recreation

Subject: Budget Amendment - USTA Grant

EXPLAIN REQUEST:

The Town of Huntersville was awarded a \$23,000 USTA grant. Appropriate USTA Grant revenue (403419.9999.25013) of \$23,000 for the resurfacing of the tennis courts at North Mecklenburg Park (406200.0505.25013).

ACTION RECOMMENDED:

Approve Budget Amendment.

FINANCIAL IMPLICATIONS:

No net impact to fund balance; offsetting revenue and expense.

ATTACHMENTS:

None



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Jim Dotoli, Fire Chief

Subject: Surplus of Fire Department Vehicles and Associated Equipment

EXPLAIN REQUEST:

An item on the August 6, 2024 agenda declared these same trucks surplus, but required a minimum bid amount that was not met. Therefore, this item declares the same trucks surplus without the minimum bid threshold, allowing us to dispose of the property at the highest bid received. The Board may reject all bids. Each vehicle is being replaced in August 2024 with a new unit following the HFD truck replacement schedule of replacing apparatus over 20 years of age. These vehicles will be sold on GovDeals.com via on-line auction.

ACTION RECOMMENDED:

Approve surplus.

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. Exhibit A - Notice of electronic auction for surplus 9-9-24



**RESOLUTION OF THE TOWN OF HUNTERSVILLE BOARD OF COMMISSIONERS
AUTHORIZING THE ELECTRONIC PUBLIC AUCTION OF SURPLUS PROPERTY**

Resolution No. R-2024-28

WHEREAS, the Town of Huntersville owns two fire trucks (the "Vehicles") described further in the attached Exhibit "A"; and

WHEREAS, the Vehicles are surplus property which the Town desires to sell on GovDeals.com; and

WHEREAS, N.C.G.S. § 160A-270(b) permits the Town to sell personal property by electronic public auction; and

WHEREAS, the Town of Huntersville Board of Commissioners (the "Town Board") now desires to authorize the sale of the Vehicles by electronic public auction.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board hereby declares the Vehicles surplus property.
2. The Town Board authorizes the Town Manager or his designee to sell the Vehicle(s) described in Exhibit "A" by electronic auction on [GovDeals.com](https://govdeals.com) beginning September 28th, 2024 at 8:00 a.m. and ending on October 12th, 2024 at 5:00 p.m. Bids may be placed on and the terms of the sale shall be available for review on GoveDeals.com.
3. Following the electronic auction, the Town Board authorizes the Town Manager, acting upon the advice of legal counsel, to take actions necessary to execute the sale of the Vehicle(s) without further Town Board action.
4. The notice attached hereto as Exhibit "B" shall be published a minimum of ten (10) days prior to the electronic auction by electronic means on the Town's website.
5. The Town reserves the right to withdraw the Vehicle(s) from sale at any time and the right to reject all bids.

Adopted this 17th day of September, 2024

ATTEST:

Janet Pierson, Town Clerk

Christy Clark, Mayor

APPROVED AS TO FORM:

Emily Sloop, Town Attorney

PUBLIC NOTICE
SALE OF TOWN SURPLUS PERSONAL PROPERTY BY ELECTRONIC
AUCTION (N.C.G.S. § 160A-270(b))

The Town of Huntersville Board of Commissioners passed a resolution on September 17th, 2024, authorizing the electronic auction of two fire trucks, described further below, beginning September 28th, 2024, at 8:00 a.m. and ending October 12th, 2024, at 5:00 p.m. on [GovDeals.com](https://govdeals.com). The trucks can be previewed Monday through Friday from September 18th, 2024 through October 11th, 2024 at the location(s) described below. The Town reserves the right to reject any or all bids and remove the vehicles from sale.

The terms of the final sale are that:

1. The payment must be by Certified or cashier's check.
2. All items are to be removed within ten (10) business days from close of auction.
3. All other terms may be found on [GovDeals.com](https://govdeals.com).

Any questions regarding this sale, contact: CJ Auten, Battalion Chief, at 704-912-7402 or cauten@huntersville.org.

Surplus Items:

1) **2001 Pierce Engine**

Vin#: 4P1CT02A71A001854

Mileage: Approx. 64,655

Pump Hours: Approx. 4,163

View at: 13423 Eastfield Road, Huntersville, NC 28078

2) **2002 Spartan Marion Engine**

Vin#: 4S7AU41992C043006

Mileage: Approx. 66,563

Pump Hours: Approx. 4,222

View at: 13423 Eastfield Road, Huntersville, NC 28078



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Nathan Farber, Senior Planner

Subject: Petition #TA24-06 - Farmhouse Cluster Changes

EXPLAIN REQUEST:

Consider decision on Petition #TA24-06 "Farmhouse Cluster Changes" a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.1(e), 3.2.2(e), 3.2.1(d)3(c), 3.2.2(d)3(c), and 12.2.1 "Open Space" of the Huntersville Zoning Ordinance to make changes to Farmhouse Clusters and Open Space.

ACTION RECOMMENDED:

Consider Decision

FINANCIAL IMPLICATIONS:

NA

ATTACHMENTS:

1. TA24-06 TB Final Decision
2. 1. Text Amendment Application
3. 2. Proposed Ordinance
4. 3. HOAB Minutes

TA24-06 – Farmhouse Cluster Changes

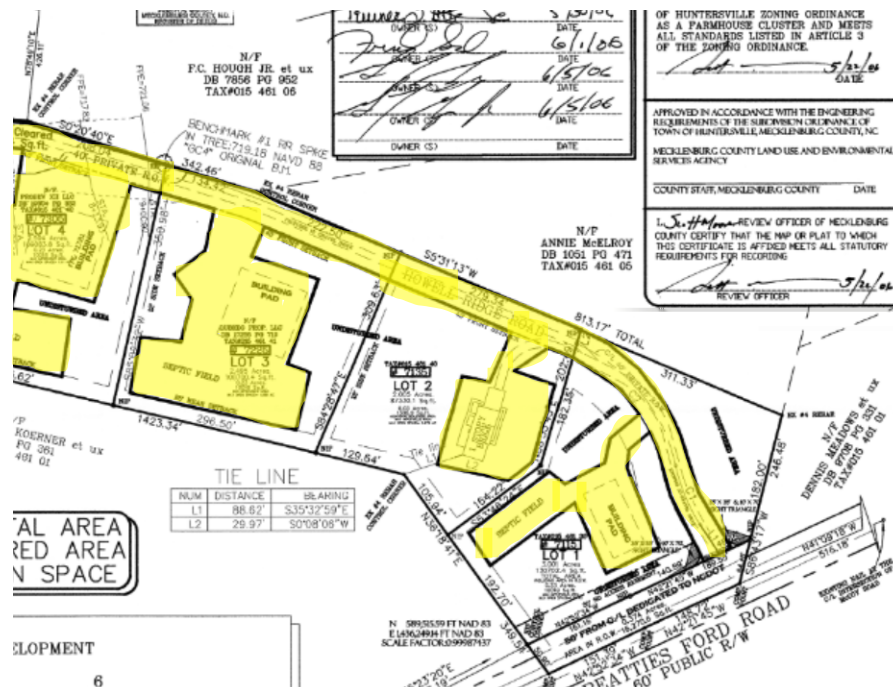
PART 1: DESCRIPTION

TA2-06 is a text amendment request by the Town of Huntersville Planning Department to make changes to the Farmhouse Cluster Subdivision requirements. These changes include requiring an 80ft buffer along the public road and removing the ability to place tree save and open space within private buildable lots.

PART 2: BACKGROUND

Farmhouse Clusters allow the ability to create subdivisions that sensitively integrate within the rural environment. In the Rural and Transition Residential zoning district Farmhouse Clusters allow you to add more density than a minor subdivision without having to go through the major subdivision process. The trade-off required is to provide quality open space and tree preservation while maintaining the rural character of the zoning districts and scenic country roads.

The type of open space used within a farmhouse cluster needs to correspond to the physical conditions of the lot at approval. This often results in the bulk of the open space being natural open space, which requires this space not to be disturbed. Today, Farmhouse Clusters allow the required open space and tree save to be located within the private buildable lots (See below photo. Everything outside of the yellow is open space within a private buildable lot). This often results in the disturbance of the required open space and tree save, because homeowners often assume that they can do anything within the bounds of their property. These disturbances result in increased pressure on enforcement and the loss of mature protected vegetation. Staff proposes to remove the ability to place open space and tree save in private lots to ensure that homeowners can do what they want within their property while protecting the rural character of the subdivision. This change is consistent with Major Subdivisions as they have always been required to keep tree save and open space out of private lots.



Farmhouse Clusters also require that “The project shall maintain a generally rural appearance from public road(s)”. This requirement was created to ensure that the town's scenic country roads are protected. In practice, this has translated to staff negotiating for at least a 60 ft vegetated buffer to meet this requirement. To clarify the Town's expectations and make communication easier between applicants and staff, staff is proposing to codify an 80 ft buffer. This proposal aligns with the already existing 80 ft buffer required for major subdivisions.

Staff is also proposing to allow greater flexibility in the design of the 80 ft buffer. If there is no existing wooded area along the street, any meadow or pasture can be used if it maintains a generally rural appearance and contains at least one softscape or hardscape element, and the homes are to be minimally screened from the street. This could include providing a split rail fence and trees along the front of the buffer. This gives applicants the ability to choose to not use the standard buffer plantings which often give a manicured appearance that does not align with the existing rural surroundings.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

LU 9.2: Within lower intensity areas including Moderate Density, Residential Edge, Rural Conservation, and Critical Watershed areas conservation design & farmhouse clusters are encouraged.

- Scenic nature of roadways should be preserved
- Development should be clustered away from key natural features.
- Site design should minimize grading and maximize preservation of existing stands of mature, native trees.

Staff Comment: The proposed text amendment proposes to further build upon already existing language to ensure the required buffer, open space, and tree save are of a higher quality and protected from disturbance.

EOS 6.1: Enforce existing standards and evaluate new design standards to preserve the character of scenic country roads.

- McCauley Road, Black Farms Road, Beatties Farm Road, and Ramah Church Road have been identified as scenic resources and should have corridor-specific design controls that preserve scenic beauty.
- Current regulations require a preserved buffer of trees in some areas and open space requirements encourage the protection of key features, such as views, fields, and historical structures.

Staff Comment: The proposed text amendment will allow flexibility in determining the best way to provide a buffer while ensuring the character of scenic country roads are preserved. The removal of open space and tree save from private buildable lots will allow higher quality preservation of existing trees and natural space while reducing the risk of disturbance in the future. This change will also make preservation consistent with other sections of the code.

EOS 3.1: Make mature, native forest an open space priority, especially near streams.

- Review and update tree preservation and open space requirements to prioritize natural open space and specifically stands of native, mature forest, especially those forests located proximal to streams

Staff Comment: The proposed text amendment prioritizes open space and tree save by requiring these items to be placed outside of private lots. This will ensure that a higher quality of natural space will be prioritized as it will remove the risk of future disturbance.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment TA24-06 based on consistency with policies LU 9.2, EOS 3.1, and EOS 6.1 of the Huntersville 2040 Community Plan.

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD-

On May 2, 2024, The Huntersville Ordinances Advisory Board (HOAB) recommended approval (7-1). See attachment 3.

PART 6: PUBLIC HEARING

The Public Hearing took place on August 6, 2024.

PART 7: PLANNING BOARD RECOMMENDATION

On August 27, 2024, The Planning Board recommended approval with a vote of 7-1.

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Proposed Ordinance
3. HOAB Minutes

PART 9: STATEMENT OF CONSISTENCY – TA23-06

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA24-06, Planning Staff recommends approval based on consistency with policies LU 9.2, EOS 3.1, and EOS 6.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it provides higher quality open space while ensuring the preservation of rural character which complies with the Huntersville 2040 Community Plan.	APPROVAL: In considering the proposed amendment TA24-06, the Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)	APPROVAL: In considering the proposed amendment TA24-06, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
DENIAL: N/A	DENIAL: In considering the proposed amendment TA24-06, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>.	DENIAL: In considering the proposed amendment TA24-06, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>.

	It is not reasonable and in the public interest to amend the Zoning Ordinance because.... <i>(Explain)</i>	It is not reasonable and in the public interest to amend the Zoning Ordinance because.... <i>(Explain)</i>
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Text Amendment Application

Date of Application 5/1/2024

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 3.2.1, 3.22, 12.2.1 Section(s): Please see attached

Current Ordinance

Please see attached

Proposed Text

Please see attached

**Reason for Proposed
Change**

Please see attached

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Town of Huntersville Planning Staff

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature Nathan Farber Date 5/1/2024

Title Senior Planner Email nfarber@huntersville.org

Address of Applicant 105 Gilead Rd Floor 3, Huntersville, NC 28078

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____

Staff Initials: _____

AN ORDINANCE TO AMEND ARTICLE 3.2.1, 3.2.2 and 12.2.1, Farmhouse Clusters Changes

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 3.2.1 and 3.2.2, section (e) Special Requirements: Farmhouse Cluster Developments of the Zoning Ordinance is hereby amended as follows:

Special Requirements: Farmhouse Cluster Developments. A **Farmhouse Cluster** permits the subdivision of land for up to six house lots accessed by way of a shared private drive when the following conditions have been met:

1. Minimum project size and frontage on public road: 10 acres with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement.
2. There shall be no more than two farmhouse cluster developments permitted per tract.
3. Private drives shall be paved in accordance with the Town of Huntersville construction standards. The private street right-of-way or easement shall be of sufficient width to accommodate drainage/water quality treatment associated with the private drive. Further, the recorded easement shall have at least 30' of frontage on a public street. In the event two farmhouse clusters are established, the private drive serving those farmhouse clusters may be connected provided:
 - a) The subdivision plat and associated deeds shall clearly state such drive shall remain private and will not be taken over by a public entity in the future unless such street complies with the construction standards of that public entity.
 - b) Where feasible, there shall be two means of ingress and egress into the combined farmhouse cluster development. Only in the event the original tract does not have the adequate frontage on a public road to obtain two driveway permits would one private drive be allowed to serve the combined farmhouse cluster development;
4. An association of all property owners shall be established for maintenance of all commonly held spaces, if any. Where there are no commonly held spaces except for a shared driveway or private street, a legally binding shared driveway and/or private street use and maintenance agreement shall be filed at the Register of Deeds of Mecklenburg County. Furthermore, the shared driveway or private road shall be shown, along with all appropriate and necessary easements, on a recorded plat and a note shall be attached thereto stipulating the use and maintenance of the driveway and referencing the recorded agreement(s).
5. The location of building sites shall be determined through a site analysis which identifies features to be preserved as open space;

6. No minimum lot size or width is required, so long as the project meets all other standards of the district. Detached garages in farmhouse clusters shall be placed in the side or rear yard of home lots. Farmhouse clusters must include an opaque vegetative buffer from the public street for the placement of detached garages in the side yard of home lots.
7. At least 50% of the tract shall be designated as open space. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat and on individual deeds when open space lands are not held entirely in common. Open space lands may be part of a deeded lot so long as it reflects an irrevocable conservation or open space easement requiring such portions of individual lots to remain and be used as open space as provided in this section.
8. Permitted uses of open space lands to be preserved shall correspond generally to physical conditions at the time of subdivision approval. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. For example, fields or pasture land preserved as required open space may continue to support cultivation or grazing; however existing woodlands may not be clear-cut. In order to ensure septic tanks are located on the most suitable soils, septic fields may be located in the common open space provided a maintenance easement is established for access.
9. **Private building lots, or any portion thereof, shall not be used to satisfy tree save requirements or open space requirements.**
10. The project shall maintain a generally rural appearance from public road(s) **by providing an 80 foot buffer along the property street frontage. The buffer shall consist of:**
 - a) **Vegetated plantings consisting of 4 trees per 1000 sf/ft of buffer area; 75% large maturing; 50% evergreen; 25% small maturing and 5 shrubs per 1000 sq/ft; 75% evergreen; or,**
 - b) **Softscape (ie. street trees, meadow, pastures) and hardscape elements (ie. Stone walls, split rail fencing). Residential structures must not be visible from the public road using an opaque screening (Article 7.6.2).**
11. Where a farmhouse cluster would eliminate a planned street connection or a street connection indicated on a plan adopted by the Town of Huntsville or the Charlotte-Mecklenburg Thoroughfare Plan, and no alternate alignment can reasonably provide the connection, the design of the farmhouse cluster shall provide for said connection by the dedication of right-of-way for streets less than 70 feet in width and by the reservation of right-of-way for streets 70 feet or wider.

12. A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by the Planning Staff and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 3.2.1(d)3(c) and 3.2.2(d)3(c) of the Zoning Ordinance is hereby amended as follows:

Open Space. Designated open space includes that parcel or parcels of land, which shall be set aside in perpetuity and shall have no buildings or permanent structures constructed within its perimeters except as provided for in this section. There are four types of open space in the Rural District – agriculture, common, natural, and recreation. Open space shall meet the provisions of this section and the provisions for open space established in Article 7, Part B.

- a. Areas containing buildings and other impervious surfaces in excess of 100 sq. ft., shall not be counted as open space. This shall include, but not be limited to, barns, storage buildings, parking lots, clubhouses and tennis courts,
- b. Open Space that is dedicated and accepted by the general public shall be maintained and managed by the Town of Huntersville or Mecklenburg County. The town and county have the right to accept or deny the dedication of open space to the public.
- c. In the ~~Farmhouse Cluster and in the~~ Conservation Subdivision, open space may also include portions of private building lots subject to a conservation or open space easement.
- d. Open space preservation shall be irrevocable. A metes and bounds description of the space to be preserved and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government. Private management alternatives which ensure the open space preservation required by this section will also be permitted. Restrictive covenants shall limit uses to the continuation of certain agricultural activities (pastureland, crop cultivation) or recreation uses that preserve the view from public streets of rural heritage features to be preserved. Upon verification by the town that restriction of development has been established by a permanent and irrevocable instrument, a letter so nothing shall be simultaneously issued to the property owner(s) and to the Mecklenburg County Tax Administrator, Office of Real Estate Appraisal.

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12.2.1 “General Definitions” of the Zoning Ordinance is hereby amended as follows:

Open Space. Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation, ~~Unless specifically allowed by this ordinance in the Farmhouse Cluster,~~ Conservation Subdivisions, and Minor Subdivisions. Reference Article 7.11 Urban, Agricultural, Common, Natural, and Recreational Open Space for specific qualitative criteria.

Section 3. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: 4/4/2024

PUBLIC HEARING DATE: 7/16/2024

PLANNING BOARD MEETING: 7/23/2024

TOWN BOARD DECISION: 8/20/2024

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Thursday, May 2, 2024.

Call to Order/Roll Call

Chairwoman Hallman called the meeting to order at 3:30 pm.

Voting Members Present: A. Hallman, K. Jones, M. Pollard, J. Palillo, J. Kluttz, S. Harrington, S. Hensley, and H. Whittaker

Voting Members Absent: M. Jones

Non-Voting Members Present: Commissioner Bergman, B. Richards, T. Barron, and E. Sloop.

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the March 7, 2024, Regular Meeting Minutes

Motion: S. Harrington made a Motion to Approve the March 7, 2024, regular meeting minutes as amended. H. Whittaker seconded the motion.

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

Public Comments

None

Action Agenda

4A. TA24-06: Proposed amendment to require farmhouse clusters to provide an 80-foot vegetative buffer and place open space and tree save outside of private buildable lots.

N. Farber, Planner II reviewed the proposed text amendment.

The Board confirmed the proposed buffer is only the buffer along the street frontage and not side or rear buffers, requirement would include landscaping the buffer with native plants, how the open space is currently enforced, and how this would adjust the flexibility of what the homeowner would be able to utilize the land that they purchase.

Motion: M. Pollard made a motion to recommend Approval of TA24-06. K. Jones seconded the motion.

S. Hensley commented that generally he is not in support of limiting personal property rights, but he can see the benefit of what is being proposed for the homeowner to be able to use their property and for the expectations of the trees that will remain.

Vote: The motion passed (7-1) with J. Palillo opposed.

4B. TA24-07: Proposed amendment to remove reference of family-only occupancy requirement for ADU's from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zoning districts.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed the allowed uses for the ADU, if there were any limitations regarding short-term rental and ADU's, and approximately how much General Residential zoning still remains in town, and what caused the text amendment to be proposed.

Motion: M. Pollard made a motion to recommend Approval of TA24-07. J. Palillo seconded the motion.

Vote: The motion passed (7-1) with A. Hallman opposed.

4C. TA 24-08: Proposed amendment to update language to clarify where an existing Family Care Home's exclusive one-half mile radius limit is measured from.

P. Patterson, Planner I reviewed the proposed text amendment that is not a required update due to North Carolina General Statutes.

The Board reviewed the current methodology and proposed changes, why this regulation exists, and expressed concern about the existing distance requirements as this is an important solution for an aging population seeking affordable housing.

Motion: S. Harrington made a motion to recommend Approval of TA24-08. J. Palillo seconded the motion.

A. Hallman commented that it does appear that this Board is being asked to recommend a text amendment in full and not in part even though a portion of the text amendment is not being heard by the Board as it relates to statute changes.

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

4D. TA24-09: Proposed amendment to Article 8.10 "Building Separation" and Article 12, Section 12.2.1, to align with fire-separation distance as defined in the North Carolina State Building Code.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed that the full and complete building code outlines the requirements and must be met through a building permit.

Motion: J. Palillo made a motion to recommend Approval of TA24-09. J. Klutz seconded the motion.

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

Other Business

J. Palillo announced his resignation from the Ordinance Advisory Board due to personal time conflicts effective immediately. He thanked everyone for the opportunity to be on the Board. The Board thanked him for his service and commented on the value of his first-hand experience to the discussions.

Adjourn

Motion: J. Palillo made a Motion to Adjourn. M. Pollard seconded the motion.

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

Approved this ____ day of _____ 2024.

Chair or Vice Chair

Board Secretary



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Patrick Patterson, Planner II

Subject: Petition #TA24-07 - Accessory Dwelling Units in GR

EXPLAIN REQUEST:

Consider a decision on Petition #TA24-07 "Accessory Dwelling Units in General Residential," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.3(c) of the Huntersville Zoning Ordinance to remove the family-only occupancy requirement from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zones.

ACTION RECOMMENDED:

Consider a decision

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA24-07 Staff Report TB
2. Signed Application TA24-07 and Ordinance
3. May 2, 2024 Minutes-HOAB
4. August 27, 2024 Minutes-Planning Board

TA24-07 Accessory Dwelling Units (ADU's) in General Residential

PART 1: DESCRIPTION

TA24-07 is a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.3(c) of the Huntersville Zoning Ordinance to remove the family-only occupancy requirement from the General Residential (GR) zoning district regulations to achieve consistency with the rules governing Accessory Dwelling Units (ADU's) in other residential zones.

PART 2: BACKGROUND

Accessory Dwelling Units (ADUs) are conditionally permitted in every residential district of the Town of Huntersville. Notably, in the General Residential (GR) zoning district, ADUs are currently restricted for use exclusively by family members (related person(s)). This "family only" restriction does not apply to other residential districts. Planning staff proposes eliminating this family-only occupancy requirement from the GR district regulations to achieve consistency with the rules governing ADUs in other residential zones.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

LU 10.1: Align housing options with resident needs and promote attainable housing options. Accommodate a mix of housing by type, tenure, and location to serve a growing and increasingly diverse population. Housing offerings should align with workforce opportunities, including management, professional positions, and service positions.

Comment: The proposed text amendment seeks to increase attainable housing options and accommodate a mix of housing types, satisfying one of the land use policies of the Huntersville 2040 Community Plan.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment TA24-07 to achieve consistency with the rules governing ADUs in other residential zones.

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD RECOMMENDATION

On March 7, 2024, The Huntersville Ordinance Advisory Board recommended approval of TA24-07 with a vote of (7-1).

PART 6: PUBLIC HEARING

The Public Hearing was performed on August 6th, 2024, with one member of the public speaking against the proposed text amendment.

Link to livestream below.

<https://www.youtube.com/watch?v=5Wx6wgzRyQk&t=9082s>

PART 7: PLANNING BOARD RECOMMENDATION

On August 27th, 2024, The Planning Board recommended approval of TA24-07 with a vote of (4-3-1). Planning Board members had discussions about the effect of the proposed amendment. While some members viewed the amendment as a way to provide affordable housing options and align with existing regulations, others were concerned it might inadvertently allow increased density and fail to protect existing land uses. Ultimately, despite concerns about potential impact on neighborhoods, the Planning Board recommended approval of the amendment, emphasizing its potential benefits for affordable housing, aligning with other residential zoning districts, and providing realistic and enforceable regulations.

Planning Board minutes are attached to this staff report and link to livestream of meeting below.

https://www.youtube.com/watch?v=TBatcxgP_uY

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Proposed Ordinance
3. HOAB Minutes
4. Planning Board Minutes

PART 9: STATEMENT OF CONSISTENCY – TA24-07		
Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA24-07, Planning Staff recommends approval based on consistency with L.U. 10.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it will make General Residential (GR) consistent with other residential districts and increase housing choices for residents of Huntersville.	APPROVAL: In considering the proposed amendment TA24-07, the Planning Board recommends approval based on the amendment being consistent with the rules governing accessory dwelling units in other zoning districts It is reasonable and in the public interest to amend the Zoning Ordinance because this provides realistic and enforceable regulations and the ability to make housing affordable.	APPROVAL: In considering the proposed amendment TA24-07, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
DENIAL: N/A	DENIAL: N/A	DENIAL: In considering the proposed amendment TA24-07, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)



Text Amendment Application

Date of Application 4/19/2024

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

____ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

X Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Ordinance Article(s): See Attached Section(s): See Attached

Current Ordinance

See Attached

Proposed Text

See Attached

Reason for Proposed
Change

To update the General Residential (GR) zoning district ADU restrictions to be
consistent with all other residential zoning districts

Applicant

Printed Name Town of Huntersville Planning Department Staff

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature  Date 4/22/21

Title Planning Director Email brichard@huntersville.org

Address of Applicant _____

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____

Staff Initials: _____

**AN ORDINANCE TO AMEND THE HUNTERSVILLE ZONING ORDINANCE TO
REMOVE RELATED PERSON(S) REQUIREMENTS FROM THE GENERAL
RESIDENTIAL ZONING DISTRICT**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 3.2.3(c), Zoning Ordinance is hereby amended as follows:

(c) Permitted Accessory Uses.

- accessory dwellings ~~for use by related person(s)~~, (9.1)
- day care home (small), (9.11)
- home occupations, (9.19)
- marinas, (9.42)
- solar facility, minor non-residential (9.54)
- solar energy facility, minor residential (9.54)
- accessory uses permitted in all districts (8.11)

Section 2. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: 5/2/24

PUBLIC HEARING DATE:

PLANNING BOARD MEETING:

TOWN BOARD DECISION:

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Thursday, May 2, 2024.

Call to Order/Roll Call

Chairwoman Hallman called the meeting to order at 3:30 pm.

Voting Members Present: A. Hallman, K. Jones, M. Pollard, J. Palillo, J. Kluttz, S. Harrington, S. Hensley, and H. Whittaker

Voting Members Absent: M. Jones

Non-Voting Members Present: Commissioner Bergman, B. Richards, T. Barron, and E. Sloop.

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the March 7, 2024, Regular Meeting Minutes

Motion: S. Harrington made a Motion to Approve the March 7, 2024, regular meeting minutes as amended. H. Whittaker seconded the motion.

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

Public Comments

None

Action Agenda

4A. TA24-06: Proposed amendment to require farmhouse clusters to provide an 80-foot vegetative buffer and place open space and tree save outside of private buildable lots.

N. Farber, Planner II reviewed the proposed text amendment.

The Board confirmed the proposed buffer is only the buffer along the street frontage and not side or rear buffers, requirement would include landscaping the buffer with native plants, how the open space is currently enforced, and how this would adjust the flexibility of what the homeowner would be able to utilize the land that they purchase.

Motion: M. Pollard made a motion to recommend Approval of TA24-06. K. Jones seconded the motion.

S. Hensley commented that generally he is not in support of limiting personal property rights, but he can see the benefit of what is being proposed for the homeowner to be able to use their property and for the expectations of the trees that will remain.

Vote: The motion passed (7-1) with J. Palillo opposed.

4B. TA24-07: Proposed amendment to remove reference of family-only occupancy requirement for ADU's from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zoning districts.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed the allowed uses for the ADU, if there were any limitations regarding short-term rental and ADU's, and approximately how much General Residential zoning still remains in town, and what caused the text amendment to be proposed.

Motion: M. Pollard made a motion to recommend Approval of TA24-07. J. Palillo seconded the motion.

Vote: The motion passed (7-1) with A. Hallman opposed.

4C. TA 24-08: Proposed amendment to update language to clarify where an existing Family Care Home's exclusive one-half mile radius limit is measured from.

P. Patterson, Planner I reviewed the proposed text amendment that is not a required update due to North Carolina General Statutes.

The Board reviewed the current methodology and proposed changes, why this regulation exists, and expressed concern about the existing distance requirements as this is an important solution for an aging population seeking affordable housing.

Motion: S. Harrington made a motion to recommend Approval of TA24-08. J. Palillo seconded the motion.

A. Hallman commented that it does appear that this Board is being asked to recommend a text amendment in full and not in part even though a portion of the text amendment is not being heard by the Board as it relates to statute changes.

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

4D. TA24-09: Proposed amendment to Article 8.10 "Building Separation" and Article 12, Section 12.2.1, to align with fire-separation distance as defined in the North Carolina State Building Code.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed that the full and complete building code outlines the requirements and must be met through a building permit.

Motion: J. Palillo made a motion to recommend Approval of TA24-09. J. Klutz seconded the motion.

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

Other Business

J. Palillo announced his resignation from the Ordinance Advisory Board due to personal time conflicts effective immediately. He thanked everyone for the opportunity to be on the Board. The Board thanked him for his service and commented on the value of his first-hand experience to the discussions.

Adjourn

Motion: J. Palillo made a Motion to Adjourn. M. Pollard seconded the motion.

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

Approved this ____ day of _____ 2024.

Chair or Vice Chair

Board Secretary

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, August 27, 2024.

Call to Order/Roll Call

Chairman Sny called the meeting to order at 6:30 pm.

Present: J. Sny, F. Gammon, C. Boyd, J. Henson, S. Hensley, L. Hallman, G. Baber & T. Loomis

Absent: J. Wright

Motion: J. Sny made a motion to Amend the Agenda and hear Item 1.A. as Other Business and Item 4.D. as the last Action Item. C. Boyd seconded the motion.

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

Approval of Minutes

Item 2A. Consider approval of the June 25, 2024, Regular Meeting Minutes

Motion: L. Hallman made a Motion to Approve the June 25, 2024, minutes. J. Henson seconded the motion.

Vote: The motion passed unanimously (6-0-2) with G. Baber and M. Pollard abstaining.

Public Comments:

W. DuPriest, Huntersville

E. McCormack, Huntersville

R. Hahn, Huntersville

D. Boone, Huntersville

Recusal: S. Hensley notified the Board that he has a conflicting interest in Item 4A and requested to be recused.

Motion: J. Henson made a motion to recuse S. Hensley from the current item on the agenda. L. Hallman seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Action Items

Item 4A: Consider a recommendation on Petition #R24-03 Long Creek Retail, a request by Saleh Moflehi of TA&S Enterprises of NC Inc. to rezone +/- 4.39 acres located at the intersection of Mt. Holly-Huntersville Road and Beatties Ford Road from Highway Commercial-Conditional District to Highway Commercial-Conditional District for an amendment to rezoning #R08-01 for a convenience store and retail/commercial use development.

J. James, Principal Planner notified the Board that the applicant has requested to continue the item to the September 24, 2024, Planning Board meeting.

Motion: G. Baber made a motion to Defer R24-03 to the September 24, 2024, Planning Board meeting. C. Boyd seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Motion: M. Pollard made a motion to reseal S. Hensley. T. Loomis seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Recusal: J. Henson notified the Board that he has a conflicting interest in Item 4B and requested to be recused.

Motion: L. Hallman made a motion to recuse J. Henson from item 4B. T. Loomis seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Item 4B: Consider a recommendation on Petition #R24-04 Northbrook Storage, a request by Jake Palillo on behalf of Bi-Part Development LLC to rezone +/- 21.936 acres located on Sam Furr Road from Corporate Business to Special Purpose-Conditional District for a storage facility and other commercial uses.

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 and stated that the application completed a resubmittal of plans on August 19, 2024, with the staff report due on August 20, 2024, the latest submission has not had a complete review.

G. Baber reviewed the requested modifications, staff's support or non-support of modifications, and how staff would ensure that proposed agreements would be kept if they are not yet reviewed or confirmed. Regarding concerns expressed by the public, G. Baber asked if the applicant would be installing a traffic control light. Staff confirmed that NCDOT would have to make that determination and it would not be likely due to the design of a super street with the goal of moving traffic along Highway 73 that a traffic light would be required.

T. Loomis commented that the public has expressed an interest in having retail and restaurants in this area and asked if the proposed rezoning would permit those uses. Staff confirmed that the commercial rezoning would permit those uses.

C. Boyd asked how the TIA is complete when the uses have not been finalized for all of the parcels and why doesn't the TIA take into account the neighborhood traffic that will use this access point. Staff stated that the TIA was deferred to NCDOT since the project primarily fronts on NCDOT roads with a storage facility and business park indicated as the uses to give broad coverage. One of the comments staff has added is that if a daycare center is being proposed then it will need to be vetted through NCDOT to confirm the TIA findings have not adjusted.

C. Boyd asked why the communication tower is still an allowed use. Staff commented that this use and commercial kennels have buffer requirements that make them not a viable option for these parcels, so they were not specifically removed.

L. Hallman asked if buffer modification is still be requested after the realignment of building C. Staff confirmed that building C is as close to the road as possible given the utility easements and the buffer modifications are still being requested.

J. Snyder confirmed that the proposed buffer is 35' and asked staff to confirm that if the conditional rezoning is approved by the Town Board if the applicant would still have the by right option within the

zoning for the list of uses that would be allowed. Staff confirmed that is correct unless the Town Board in their motion chooses to remove allowed uses from the parcels as part of the condition and as staff is recommending.

S. Hensley reviewed that automotive country club and hotel/motel would be allowed today as by right development and an advantage of this process is that the Town can more narrowly define what is allowed on these parcels. Staff confirmed that is correct.

Applicant J. Pallilo, Cornelius presented the proposed development.

M. Pollard asked the applicant to explain the proposed traffic movement that NCDOT has approved. The applicant reviewed the proposed traffic movement of right in, right out only movement with the uses of the U-turn bulbs along Highway 73.

G. Baber asked if NCDOT has commented regarding a traffic light at Oak Farm Road. The applicant responded that the traffic lights will be at the U-turn bulbs and the school could potentially get one because they are a school.

S. Hensley asked if the second modification request is still active for the pet park. That modification is no longer being requested. The buffer modifications and modification for the daycare center playground fronting Maple Branch and Highway 73 are still being requested. The applicant confirmed that they have a tenant that sells dog food and provides vet services interested in leasing space, so they are not interested in having the applicable use removed.

L. Hallman asked the applicant if the TIA was completed with the current uses. The applicant stated that the modified uses will be resubmitted to NCDOT and they will let the applicant know what is required, those requirements are not optional.

J. Sny asked the applicant if he would like to defer given the substantial amount of information that has been changed or is not available to the Board to review. The applicant stated that they have already agreed to the items the staff has commented on and the playground buffer and landscape is the only new item for consideration. S. Hensley followed up and stated the new set of plans may have been submitted but staff has not been able to complete a review and it is not presented to the Board. The applicant stated that there isn't really anything new or different that will be submitted, the information is there, and they have already agreed to the areas of concern brought up by staff.

C. Boyd asked who owns the roads, Maple Branch and Oak Farm and River Race Drive. Staff confirmed that the roads have not, yet all been annexed but will be Town roads. Staff confirmed that those are public streets and there are limitations to what can be done. Potentially the Town could investigate posting weight limit signs. The roads are designed at the outset to reduce a number of problems, in the event that one still occurs and is reported, then a traffic study could be conducted to determine if calming devices should be installed.

L. Hallman asked staff to review what would be different between the current site plan that the Board is reviewing, and the last site plan submitted if they had to write a staff report today. Staff outlined the

major differences being the daycare and playground modification with no follow up opportunity for staff to have of the negotiation conversations regarding the conditional element of the modification with the applicant.

J. Sny asked the applicant to confirm if they were asking for a modification for parcel A on a site plan that has not been presented to the Board. The applicant confirmed that is correct. The Board followed up with concerns regarding staff's inability to fully review the site plan, a request for undocumented modifications, the lack of hard copy for the requests before the Board, and the inability for staff to negotiate on the conditions given the time frame of the request. The applicant requested a deferral of 30 days for staff to have time to complete these actions.

Motion: T. Loomis made a motion to Defer R24-04 Northbrook Storage to September 24, 2024. M. Pollard seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Motion: C. Boyd made a motion to reseal J. Henson. L. Hallman seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Item 4C: Consider a recommendation on Petition #TA24-06 "Farmhouse Cluster Changes," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.1(e), 3.2.2(e), 3.2.1(d)3(c), 3.2.2(d)3(c), and 12.2.1 "Open Space" of the Huntersville Zoning Ordinance to make changes to Farmhouse Clusters and Open Space.

N. Farber, Senior Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the proposed text amendment.

S. Hensley asked how we define, 'if vegetation exists.' Staff responded that the applicant is required to submit an existing conditions survey. The existing conditions could be a variety of natural features such as meadows, grasses, trees, understory, etc.

J. Henson commented that he struggled with this proposal. By the time you meet the regulations of open space, tree save and the road within the allowed 6 lots on 10 acres, you end up with approximately ¾ acre lots. He reviewed previous farmhouse clusters that his firm worked on and determined that this amendment would adjust an average lot size of 1 acre down to ¾ or .7 acres. While he appreciates the need to protect the trees and tree save, he commented on the stormwater effects on these lots, the fact that these developments typically have septic systems so the combination of the two really eats up a lot of the land available. As an alternative he offered up looking at increasing the penalties for tree save removal. Staff responded that they want to be careful about taxation since the goal is to really save the trees. If the tree is cut down there is no quick replacement, the tree is just gone for 20 years. If the home is sold and resold, how informed are the homeowners? Mature native space was a priority of the 2040 Plan and the focus of the amendment is to preserve the trees.

J. Henson asked if there was a consideration to have open space on the lot and tree save not on the lot. Staff reviewed the challenges with that and why staff chose not to take that approach. Staff also stated that the minimum requirement is 10 acres, so developers also have the option to increase their total land area as a means to achieve larger lot sizes.

L. Hallman asked staff to review then where the proposed tree save would be located. Staff explained that the developer would have to identify the tree save area within the entire development but not within the buildable lot. The buildable lots may be smaller but still within the 10-acre total development.

Motion: S. Hensley made a motion to Recommend Approval of TA24-06 the Planning Board recommends approval based on the text amendment being consistent with LU9.2, EOS 3.1 and EOS6.1 of the 2040 Huntersville Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it provides higher quality open space and helps to ensure owners within a farmhouse cluster that the open space will remain open space and not be disturbed and ensure the preservation and rural character which complies with the Huntersville 2040 Plan. T. Loomis seconded the motion.

S. Hensley commented that he lives in a farmhouse cluster and that he would like to think that whatever open space is supposed to be there that one of his neighbors cannot go and reduce that open space so that his private property rights are protected, and the character of the development remains the same.

Vote: The motion passed (7-1) with J. Henson opposed.

Item 4E: Consider a recommendation on Petition #TA24-08 “Family Care Home,” a text amendment request by the Town of Huntersville Planning Department to amend Article 12, Section 12.2.1 of the Huntersville Zoning Ordinance to update the language to specify where a Family Care Home’s one-half mile radius distance is measured from.

P. Patterson, Planner II 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 proposed text amendment.

Motion: L. Hallman made a motion to Recommend Approval of TA-24-08, the Planning Board recommends approval based on the consistency with all policies of the Huntersville 2040 Community Plan and its compliance with state statutes. It is reasonable and in the public interest to amend the zoning ordinance because it will provide further clarification to the language. C. Boyd seconded the motion.

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

Item 4F: Consider a recommendation on Petition #TA24-09 “Building Separation,” a text amendment request by the Town of Huntersville Planning Department to amend Article 8.10 and Article 12.2.1 of the Huntersville Zoning Ordinance to closer align our rules regarding building separation to North Carolina Building Code Standards and North Carolina Residential Code Standards.

P. Patterson, Planner II 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 text amendment.

Motion: M. Pollard made a motion to Recommend Approval of TA24-09 to amend Article 8.10 and Article 12.2.1 to be revised as follows, all principal structures in all districts shall be in compliance with NC Building Code Requirements in section 8.10. In section 2 of article 12.2.1 it shall be amended to, Fire separation Distance. The distance measured from the building face to one of the following: 1. To the closest interior lot line. 2. To the centerline of a street, an alley or public way. 3. To an imaginary line between two buildings on the lot. The distance shall be measured at a right angle from the face of the

wall. It is reasonable and in the public interest to amend the zoning ordinance because it is being directed by an authoritative source that would suggest that it is a safer and more protective method. J. Sny seconded the motion.

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

Item 4G: Consider a recommendation on Petition #TA24-12: Proposed text amendment to modify or remove uses requiring a Special Use Permit, affecting Articles 3 and 9 of the Huntersville Zoning Ordinance.

B. Priest, Assistant 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 text amendment.

S. Hensley confirmed that the proposed CD Rezoning is the same process that we have now and asked how it could potentially affect the applicant. Staff confirmed it is the same CD Rezoning process with notifications to the public, public hearing, signage and Board approval. It could potentially take longer for the applicant to get through the process based on negotiations and how those occur, but it would also allow for more free flowing communication which could also have the effect of keeping it on the same or similar timeline with a more effective outcome.

Motion: C. Boyd made a motion to Recommend Approval of TA24-12 based on the consistency with the policies LU-8 of the Huntersville 2040 Community Plan. It is reasonable and in the public's interest to amend the zoning ordinance because it will give the public greater opportunities to discuss the application with the Town Board while at the same time making sure appropriate review processes are in place for uses that may have a greater than normal impact on adjacent properties. T. Loomis seconded the motion.

L. Hallman thanked staff for this amendment as the quasi-judicial process was stifling residents that would like to have some input.

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

Item 4D: Consider a recommendation on Petition #TA24-07 "Accessory Dwelling Units in General Residential," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.3(c) of the Huntersville Zoning Ordinance to remove the family-only occupancy requirement from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zones.

P. Patterson, Planner II 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 text amendment.

T. Loomis asked what would happen to an ADU if a hedge fund purchased a home that had an ADU. Staff confirmed that the owner of the property would be able to lease out the single-family home and the ADU.

M. Pollard shared insights from experiences in other municipalities to address this issue.

C. Boyd asked what portion of the Huntersville zoning is within the GR zoning. Staff commented that GR zoning is a relatively small portion of the residential zoning, would never apply to a new development, and only applies to homes or lots that were developed under the County.

J. Sny asked the Staff attorney if we have the authority to require the familial designation, and if there are any known methods to address businesses purchasing real estate. Legal staff responded that there have been NC School of Government articles that this can be designated but is very difficult to enforce. Any legal limitations to businesses purchasing homes would have to be enacted at the State level and there are no known legal methods to address that at this time.

J. Henson asked if anyone has ever been denied an ADU permit because they could not prove that it was for a family member. Staff confirmed that to their knowledge, no, that has never been the case.

L. Hallman asked when the ADU language was included in the Zoning Ordinances and how many ADU's have been registered. Staff confirmed it has been in the ordinances since the 1990's and there have been no ADU's registered. Staff stated that in reviewing the past 5 years of permits there are about 20 permits issued for ADU's; however, staff stated that for the types of ADU's shown, permits often start as a garage or accessory use permit, or a home addition for an attached so it is very difficult to accurately track. Only a detached ADU intended to be an ADU prior to construction would come through permitting as an ADU.

L. Hallman asked what type of structures are permitted such as she-shed, tiny home, mobile home, etc. Staff stated that the structure must meet NC Building Residential code. It cannot be a mobile home, it cannot be on wheels, it has a minimum size requirement, and must meet the balance of Minimum Housing Code and Residential Building Code.

J. Sny commented that attainable housing is a focus of the Town Board and based on the data available, it is not being used. This amendment appears to be a clean-up, but it could also be inadvertently permitting multi-family uses.

L. Hallman commented that this was a recommendation by the task force commissioned in 2023 to find attainable housing. He shared that Mooresville purchased a home for attainable housing for a teacher to qualify to move there. He asked if staff knows why this was originally included in GR zoning and not the other zoning districts. Staff commented that they do not know why.

S. Hensley commented that he will not support the amendment because he believes the market is changing but he believes that there will be more and more attainable housing and he can see what it could do to older neighborhoods not in the protection of a homeowner's association and he would prefer to see how this plays out more with other areas.

L. Hallman commented that he lives in GR zoning and feels that the homes in that zoning are by and large not in an HOA, possibly not in covenants, larger lots, predominantly ranch homes, and many of the homes have had additions over the years. Zoning could permit a much larger home but the cost to build that would make the home no longer attainable unless someone was not charging market rate for rent and the quality of the housing, type of workforce you are housing, with no regulation on who is buying

the home, the type of structure, or the resident. He commented that in his opinion this is missing the 'protect' and 'partner' of the '4 – P's' identified by the task force because it would not be protecting the existing land use and inventory, and there is no partnership with the Town.

T. Loomis commented that this can also be an affordable method for some renters who are not ready to purchase a home and can also benefit homeowners that are looking to stay in their home and not have to sell.

L. Hallman shared comments regarding the overall situation and stated that while this is well intended it will be exploited in his opinion.

Motion: T. Loomis made a motion to Recommend Approval TA 24-07. The Planning Board recommends approval based on the amendment being consistent with the rules governing accessory dwelling units in other zoning districts. This provides realistic and enforceable regulations and the ability to make housing affordable. C. Boyd seconded the motion.

Vote: The motion tied (4-4) with G. Baber, J. Sny, S. Hensley & L. Hallman opposed.

The Board had discussion regarding their voting choices and areas of concern.

Motion: G. Baber made a motion to Reconsider the motion for TA24-07. J. Henson seconded the motion.

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

Vote (original motion): The motion passed (4-3-1) with J. Sny, J. Henson and L. Hallman opposed. S. Hensley abstained.

Other Business

Item 1A. Consider nominations and appointments of the Vice-Chair and Chair of the Planning Board.

G. Baber nominated J. Sny as Chair. J. Henson seconded. No other nominations were made.

Vote: The motion passed unanimously (7-0-1) with J. Sny abstaining.

C. Boyd nominated L. Hallman for Vice-Chair. S. Hensley seconded.

L. Hallman nominated G. Baber for Vice-Chair. G. Baber declined.

S. Hensley nominated C. Boyd for Vice-Chair. C. Boyd declined.

J. Sny nominated J. Henson for Vice-Chair. T. Loomis seconded.

Vote: The Board voted 4 votes for Jay Henson, 3 votes for Lee Hallman, and 1 vote to abstain.

The Board appointed J. Sny as Chair and J. Henson as Vice-Chair for a one-year term.

Adjourn

Motion: J. Henson made a Motion to Adjourn. J. Sny seconded the motion.

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

Approved this ____ day of _____ 2024.

Chairman or Vice Chairman

Board Secretary



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Patrick Patterson, Planner II

Subject: Petition #TA24-08 - Family Care Home

EXPLAIN REQUEST:

Consider a decision on Petition #TA24-08 "Family Care Home," a text amendment request by the Town of Huntersville Planning Department to amend Article 12, Section 12.2.1 of the Huntersville Zoning Ordinance to update the language to specify where a Family Care Home's one-half mile radius distance is measured from.

ACTION RECOMMENDED:

Consider a decision

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA24-08 Staff Report TB
2. TA24-08 Ordinance
3. Signed Application TA24-08
4. May 2, 2024 Minutes
5. August 27, 2024 Minutes-Planning Board
6. GS_160D-907 Family Care Homes

TA24-08 Family Care Homes

PART 1: DESCRIPTION

TA24-08 is a text amendment request by the Town of Huntersville Planning Department to amend Article 12 Section 12.2.1 of the Huntersville Zoning Ordinance to update the language to specify where a Family Care Home's one-half mile radius distance is measured from.

PART 2: BACKGROUND

Family Care Homes are allowed in all residential districts, with certain conditions attached to the use. One of the conditions is a separation requirement between Family Care Homes. The definition of Family Care Home defines the distance as one-half mile between Family Care Homes, but does not state where the distance is measured from. Staff is looking to clarify the language to specify where a Family Care Home's one-half mile radius distance is measured from.

Staff is also making changes to language found in the "Family Care Home" definition to closer match current state statutes.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

No relevant policies in the Huntersville 2040 Community Plan.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment TA24-08 as it specifies where a Family Care Home's one-half mile radius distance is measured from.

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD RECOMMENDATION

On March 7, 2024, The Huntersville Ordinance Advisory Board recommended approval of TA24-08 with a vote of (8-0).

PART 6: PUBLIC HEARING

The Public Hearing took place on August 6th, 2024. During the Public Hearing, Town Board member Bergsman discussed reconsidering the existing one-half mile radius restriction for Family Care Homes. Planning staff has since conducted research of surrounding municipalities to find out how they regulate Family Care Homes.

Link to livestream below.

<https://www.youtube.com/watch?v=5Wx6wgzRyQk&t=9082s>

PART 7: PLANNING BOARD RECOMMENDATION

On August 27th, 2024, The Planning Board recommended approval with a vote of (8-0). Planning Board minutes are attached to this staff report.

https://www.youtube.com/watch?v=TBatcxgP_uY

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Proposed Ordinance
3. HOAB Minutes
4. GS 160D-907 “Family Care Homes”
5. Planning Board Minutes

PART 9: STATEMENT OF CONSISTENCY – TA24-08

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA24-08, Planning Staff recommends approval based on consistency with all policies of the Huntersville 2040 Community Plan and compliance with State Statutes It is reasonable and in the public interest to amend the Zoning Ordinance because it will provide further clarification to the language.	APPROVAL: In considering the proposed amendment TA24-08, the Planning Board recommends approval based on the amendment being consistent with all policies of the Huntersville 2040 Community Plan and its compliance with state statutes It is reasonable and in the public interest to amend the Zoning Ordinance because it will provide further clarification to the language.	APPROVAL: In considering the proposed amendment TA24-08, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
DENIAL: N/A	DENIAL: N/A	DENIAL: In considering the proposed amendment TA24-08, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)

**AN ORDINANCE TO AMEND THE HUNTERSVILLE ZONING ORDINANCE, ARTICLE
12, SECTION 12.2.1**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12, Section 12.2.1 of the Zoning Ordinance is hereby amended by modifying Article 12, Section 12.2.1 "Family Care Home" as follows:

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. Persons with disabilities shall mean a person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, ~~mental retardation~~ an intellectual or other developmental disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including ~~mentally ill~~ persons with a mental illness who are dangerous to others as defined in G.S. 122C-3(11)(b). Family care homes are permitted in any district which allows residential use, however, no new family care home is permitted within a one-half mile radius of an existing family care home, measured from the nearest property lines.

Section 2. This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: 5/2/24

PUBLIC HEARING DATE:

PLANNING BOARD MEETING:

TOWN BOARD DECISION:



Text Amendment Application

Date of Application 4/19/2024

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Ordinance Article(s): 12 Section(s): 12.2.1

Current Ordinance

See Attached

Proposed Text

See Attached

Reason for Proposed Change

Staff is looking to update the language to specify where a Family Care Home's on-half mile radius distance is measured from.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Town of Huntersville Planning Department Staff

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature  Date _____

Title Planning Director Email brichod@huntersville.org

Address of Applicant _____

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____

Staff Initials: _____

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Thursday, May 2, 2024.

Call to Order/Roll Call

Chairwoman Hallman called the meeting to order at 3:30 pm.

Voting Members Present: A. Hallman, K. Jones, M. Pollard, J. Palillo, J. Kluttz, S. Harrington, S. Hensley, and H. Whittaker

Voting Members Absent: M. Jones

Non-Voting Members Present: Commissioner Bergman, B. Richards, T. Barron, and E. Sloop.

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the March 7, 2024, Regular Meeting Minutes

Motion: S. Harrington made a Motion to Approve the March 7, 2024, regular meeting minutes as amended. H. Whittaker seconded the motion.

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

Public Comments

None

Action Agenda

4A. TA24-06: Proposed amendment to require farmhouse clusters to provide an 80-foot vegetative buffer and place open space and tree save outside of private buildable lots.

N. Farber, Planner II reviewed the proposed text amendment.

The Board confirmed the proposed buffer is only the buffer along the street frontage and not side or rear buffers, requirement would include landscaping the buffer with native plants, how the open space is currently enforced, and how this would adjust the flexibility of what the homeowner would be able to utilize the land that they purchase.

Motion: M. Pollard made a motion to recommend Approval of TA24-06. K. Jones seconded the motion.

S. Hensley commented that generally he is not in support of limiting personal property rights, but he can see the benefit of what is being proposed for the homeowner to be able to use their property and for the expectations of the trees that will remain.

Vote: The motion passed (7-1) with J. Palillo opposed.

4B. TA24-07: Proposed amendment to remove reference of family-only occupancy requirement for ADU's from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zoning districts.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed the allowed uses for the ADU, if there were any limitations regarding short-term rental and ADU's, and approximately how much General Residential zoning still remains in town, and what caused the text amendment to be proposed.

Motion: M. Pollard made a motion to recommend Approval of TA24-07. J. Palillo seconded the motion.

Vote: The motion passed (7-1) with A. Hallman opposed.

4C. TA 24-08: Proposed amendment to update language to clarify where an existing Family Care Home's exclusive one-half mile radius limit is measured from.

P. Patterson, Planner I reviewed the proposed text amendment that is not a required update due to North Carolina General Statutes.

The Board reviewed the current methodology and proposed changes, why this regulation exists, and expressed concern about the existing distance requirements as this is an important solution for an aging population seeking affordable housing.

Motion: S. Harrington made a motion to recommend Approval of TA24-08. J. Palillo seconded the motion.

A. Hallman commented that it does appear that this Board is being asked to recommend a text amendment in full and not in part even though a portion of the text amendment is not being heard by the Board as it relates to statute changes.

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

4D. TA24-09: Proposed amendment to Article 8.10 "Building Separation" and Article 12, Section 12.2.1, to align with fire-separation distance as defined in the North Carolina State Building Code.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed that the full and complete building code outlines the requirements and must be met through a building permit.

Motion: J. Palillo made a motion to recommend Approval of TA24-09. J. Klutz seconded the motion.

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

Other Business

J. Palillo announced his resignation from the Ordinance Advisory Board due to personal time conflicts effective immediately. He thanked everyone for the opportunity to be on the Board. The Board thanked him for his service and commented on the value of his first-hand experience to the discussions.

Adjourn

Motion: J. Palillo made a Motion to Adjourn. M. Pollard seconded the motion.

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

Approved this ____ day of _____ 2024.

Chair or Vice Chair

Board Secretary

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, August 27, 2024.

Call to Order/Roll Call

Chairman Sny called the meeting to order at 6:30 pm.

Present: J. Sny, F. Gammon, C. Boyd, J. Henson, S. Hensley, L. Hallman, G. Baber & T. Loomis

Absent: J. Wright

Motion: J. Sny made a motion to Amend the Agenda and hear Item 1.A. as Other Business and Item 4.D. as the last Action Item. C. Boyd seconded the motion.

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

Approval of Minutes

Item 2A. Consider approval of the June 25, 2024, Regular Meeting Minutes

Motion: L. Hallman made a Motion to Approve the June 25, 2024, minutes. J. Henson seconded the motion.

Vote: The motion passed unanimously (6-0-2) with G. Baber and M. Pollard abstaining.

Public Comments:

W. DuPriest, Huntersville

E. McCormack, Huntersville

R. Hahn, Huntersville

D. Boone, Huntersville

Recusal: S. Hensley notified the Board that he has a conflicting interest in Item 4A and requested to be recused.

Motion: J. Henson made a motion to recuse S. Hensley from the current item on the agenda. L. Hallman seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Action Items

Item 4A: Consider a recommendation on Petition #R24-03 Long Creek Retail, a request by Saleh Moflehi of TA&S Enterprises of NC Inc. to rezone +/- 4.39 acres located at the intersection of Mt. Holly-Huntersville Road and Beatties Ford Road from Highway Commercial-Conditional District to Highway Commercial-Conditional District for an amendment to rezoning #R08-01 for a convenience store and retail/commercial use development.

J. James, Principal Planner notified the Board that the applicant has requested to continue the item to the September 24, 2024, Planning Board meeting.

Motion: G. Baber made a motion to Defer R24-03 to the September 24, 2024, Planning Board meeting. C. Boyd seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Motion: M. Pollard made a motion to reseal S. Hensley. T. Loomis seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Recusal: J. Henson notified the Board that he has a conflicting interest in Item 4B and requested to be recused.

Motion: L. Hallman made a motion to recuse J. Henson from item 4B. T. Loomis seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Item 4B: Consider a recommendation on Petition #R24-04 Northbrook Storage, a request by Jake Palillo on behalf of Bi-Part Development LLC to rezone +/- 21.936 acres located on Sam Furr Road from Corporate Business to Special Purpose-Conditional District for a storage facility and other commercial uses.

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 and stated that the application completed a resubmittal of plans on August 19, 2024, with the staff report due on August 20, 2024, the latest submission has not had a complete review.

G. Baber reviewed the requested modifications, staff's support or non-support of modifications, and how staff would ensure that proposed agreements would be kept if they are not yet reviewed or confirmed. Regarding concerns expressed by the public, G. Baber asked if the applicant would be installing a traffic control light. Staff confirmed that NCDOT would have to make that determination and it would not be likely due to the design of a super street with the goal of moving traffic along Highway 73 that a traffic light would be required.

T. Loomis commented that the public has expressed an interest in having retail and restaurants in this area and asked if the proposed rezoning would permit those uses. Staff confirmed that the commercial rezoning would permit those uses.

C. Boyd asked how the TIA is complete when the uses have not been finalized for all of the parcels and why doesn't the TIA take into account the neighborhood traffic that will use this access point. Staff stated that the TIA was deferred to NCDOT since the project primarily fronts on NCDOT roads with a storage facility and business park indicated as the uses to give broad coverage. One of the comments staff has added is that if a daycare center is being proposed then it will need to be vetted through NCDOT to confirm the TIA findings have not adjusted.

C. Boyd asked why the communication tower is still an allowed use. Staff commented that this use and commercial kennels have buffer requirements that make them not a viable option for these parcels, so they were not specifically removed.

L. Hallman asked if buffer modification is still be requested after the realignment of building C. Staff confirmed that building C is as close to the road as possible given the utility easements and the buffer modifications are still being requested.

J. Snyder confirmed that the proposed buffer is 35' and asked staff to confirm that if the conditional rezoning is approved by the Town Board if the applicant would still have the by right option within the

zoning for the list of uses that would be allowed. Staff confirmed that is correct unless the Town Board in their motion chooses to remove allowed uses from the parcels as part of the condition and as staff is recommending.

S. Hensley reviewed that automotive country club and hotel/motel would be allowed today as by right development and an advantage of this process is that the Town can more narrowly define what is allowed on these parcels. Staff confirmed that is correct.

Applicant J. Pallilo, Cornelius presented the proposed development.

M. Pollard asked the applicant to explain the proposed traffic movement that NCDOT has approved. The applicant reviewed the proposed traffic movement of right in, right out only movement with the uses of the U-turn bulbs along Highway 73.

G. Baber asked if NCDOT has commented regarding a traffic light at Oak Farm Road. The applicant responded that the traffic lights will be at the U-turn bulbs and the school could potentially get one because they are a school.

S. Hensley asked if the second modification request is still active for the pet park. That modification is no longer being requested. The buffer modifications and modification for the daycare center playground fronting Maple Branch and Highway 73 are still being requested. The applicant confirmed that they have a tenant that sells dog food and provides vet services interested in leasing space, so they are not interested in having the applicable use removed.

L. Hallman asked the applicant if the TIA was completed with the current uses. The applicant stated that the modified uses will be resubmitted to NCDOT and they will let the applicant know what is required, those requirements are not optional.

J. Sny asked the applicant if he would like to defer given the substantial amount of information that has been changed or is not available to the Board to review. The applicant stated that they have already agreed to the items the staff has commented on and the playground buffer and landscape is the only new item for consideration. S. Hensley followed up and stated the new set of plans may have been submitted but staff has not been able to complete a review and it is not presented to the Board. The applicant stated that there isn't really anything new or different that will be submitted, the information is there, and they have already agreed to the areas of concern brought up by staff.

C. Boyd asked who owns the roads, Maple Branch and Oak Farm and River Race Drive. Staff confirmed that the roads have not, yet all been annexed but will be Town roads. Staff confirmed that those are public streets and there are limitations to what can be done. Potentially the Town could investigate posting weight limit signs. The roads are designed at the outset to reduce a number of problems, in the event that one still occurs and is reported, then a traffic study could be conducted to determine if calming devices should be installed.

L. Hallman asked staff to review what would be different between the current site plan that the Board is reviewing, and the last site plan submitted if they had to write a staff report today. Staff outlined the

major differences being the daycare and playground modification with no follow up opportunity for staff to have of the negotiation conversations regarding the conditional element of the modification with the applicant.

J. Sny asked the applicant to confirm if they were asking for a modification for parcel A on a site plan that has not been presented to the Board. The applicant confirmed that is correct. The Board followed up with concerns regarding staff's inability to fully review the site plan, a request for undocumented modifications, the lack of hard copy for the requests before the Board, and the inability for staff to negotiate on the conditions given the time frame of the request. The applicant requested a deferral of 30 days for staff to have time to complete these actions.

Motion: T. Loomis made a motion to Defer R24-04 Northbrook Storage to September 24, 2024. M. Pollard seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Motion: C. Boyd made a motion to reseal J. Henson. L. Hallman seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Item 4C: Consider a recommendation on Petition #TA24-06 "Farmhouse Cluster Changes," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.1(e), 3.2.2(e), 3.2.1(d)3(c), 3.2.2(d)3(c), and 12.2.1 "Open Space" of the Huntersville Zoning Ordinance to make changes to Farmhouse Clusters and Open Space.

N. Farber, Senior Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the proposed text amendment.

S. Hensley asked how we define, 'if vegetation exists.' Staff responded that the applicant is required to submit an existing conditions survey. The existing conditions could be a variety of natural features such as meadows, grasses, trees, understory, etc.

J. Henson commented that he struggled with this proposal. By the time you meet the regulations of open space, tree save and the road within the allowed 6 lots on 10 acres, you end up with approximately ¾ acre lots. He reviewed previous farmhouse clusters that his firm worked on and determined that this amendment would adjust an average lot size of 1 acre down to ¾ or .7 acres. While he appreciates the need to protect the trees and tree save, he commented on the stormwater effects on these lots, the fact that these developments typically have septic systems so the combination of the two really eats up a lot of the land available. As an alternative he offered up looking at increasing the penalties for tree save removal. Staff responded that they want to be careful about taxation since the goal is to really save the trees. If the tree is cut down there is no quick replacement, the tree is just gone for 20 years. If the home is sold and resold, how informed are the homeowners? Mature native space was a priority of the 2040 Plan and the focus of the amendment is to preserve the trees.

J. Henson asked if there was a consideration to have open space on the lot and tree save not on the lot. Staff reviewed the challenges with that and why staff chose not to take that approach. Staff also stated that the minimum requirement is 10 acres, so developers also have the option to increase their total land area as a means to achieve larger lot sizes.

L. Hallman asked staff to review then where the proposed tree save would be located. Staff explained that the developer would have to identify the tree save area within the entire development but not within the buildable lot. The buildable lots may be smaller but still within the 10-acre total development.

Motion: S. Hensley made a motion to Recommend Approval of TA24-06 the Planning Board recommends approval based on the text amendment being consistent with LU9.2, EOS 3.1 and EOS6.1 of the 2040 Huntersville Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it provides higher quality open space and helps to ensure owners within a farmhouse cluster that the open space will remain open space and not be disturbed and ensure the preservation and rural character which complies with the Huntersville 2040 Plan. T. Loomis seconded the motion.

S. Hensley commented that he lives in a farmhouse cluster and that he would like to think that whatever open space is supposed to be there that one of his neighbors cannot go and reduce that open space so that his private property rights are protected, and the character of the development remains the same.

Vote: The motion passed (7-1) with J. Henson opposed.

Item 4E: Consider a recommendation on Petition #TA24-08 “Family Care Home,” a text amendment request by the Town of Huntersville Planning Department to amend Article 12, Section 12.2.1 of the Huntersville Zoning Ordinance to update the language to specify where a Family Care Home’s one-half mile radius distance is measured from.

P. Patterson, Planner II 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 proposed text amendment.

Motion: L. Hallman made a motion to Recommend Approval of TA-24-08, the Planning Board recommends approval based on the consistency with all policies of the Huntersville 2040 Community Plan and its compliance with state statutes. It is reasonable and in the public interest to amend the zoning ordinance because it will provide further clarification to the language. C. Boyd seconded the motion.

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

Item 4F: Consider a recommendation on Petition #TA24-09 “Building Separation,” a text amendment request by the Town of Huntersville Planning Department to amend Article 8.10 and Article 12.2.1 of the Huntersville Zoning Ordinance to closer align our rules regarding building separation to North Carolina Building Code Standards and North Carolina Residential Code Standards.

P. Patterson, Planner II 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 text amendment.

Motion: M. Pollard made a motion to Recommend Approval of TA24-09 to amend Article 8.10 and Article 12.2.1 to be revised as follows, all principal structures in all districts shall be in compliance with NC Building Code Requirements in section 8.10. In section 2 of article 12.2.1 it shall be amended to, Fire separation Distance. The distance measured from the building face to one of the following: 1. To the closest interior lot line. 2. To the centerline of a street, an alley or public way. 3. To an imaginary line between two buildings on the lot. The distance shall be measured at a right angle from the face of the

wall. It is reasonable and in the public interest to amend the zoning ordinance because it is being directed by an authoritative source that would suggest that it is a safer and more protective method. J. Sny seconded the motion.

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

Item 4G: Consider a recommendation on Petition #TA24-12: Proposed text amendment to modify or remove uses requiring a Special Use Permit, affecting Articles 3 and 9 of the Huntersville Zoning Ordinance.

B. Priest, Assistant 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 text amendment.

S. Hensley confirmed that the proposed CD Rezoning is the same process that we have now and asked how it could potentially affect the applicant. Staff confirmed it is the same CD Rezoning process with notifications to the public, public hearing, signage and Board approval. It could potentially take longer for the applicant to get through the process based on negotiations and how those occur, but it would also allow for more free flowing communication which could also have the effect of keeping it on the same or similar timeline with a more effective outcome.

Motion: C. Boyd made a motion to Recommend Approval of TA24-12 based on the consistency with the policies LU-8 of the Huntersville 2040 Community Plan. It is reasonable and in the public's interest to amend the zoning ordinance because it will give the public greater opportunities to discuss the application with the Town Board while at the same time making sure appropriate review processes are in place for uses that may have a greater than normal impact on adjacent properties. T. Loomis seconded the motion.

L. Hallman thanked staff for this amendment as the quasi-judicial process was stifling residents that would like to have some input.

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

Item 4D: Consider a recommendation on Petition #TA24-07 "Accessory Dwelling Units in General Residential," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.3(c) of the Huntersville Zoning Ordinance to remove the family-only occupancy requirement from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zones.

P. Patterson, Planner II 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 text amendment.

T. Loomis asked what would happen to an ADU if a hedge fund purchased a home that had an ADU. Staff confirmed that the owner of the property would be able to lease out the single-family home and the ADU.

M. Pollard shared insights from experiences in other municipalities to address this issue.

C. Boyd asked what portion of the Huntersville zoning is within the GR zoning. Staff commented that GR zoning is a relatively small portion of the residential zoning, would never apply to a new development, and only applies to homes or lots that were developed under the County.

J. Sny asked the Staff attorney if we have the authority to require the familial designation, and if there are any known methods to address businesses purchasing real estate. Legal staff responded that there have been NC School of Government articles that this can be designated but is very difficult to enforce. Any legal limitations to businesses purchasing homes would have to be enacted at the State level and there are no known legal methods to address that at this time.

J. Henson asked if anyone has ever been denied an ADU permit because they could not prove that it was for a family member. Staff confirmed that to their knowledge, no, that has never been the case.

L. Hallman asked when the ADU language was included in the Zoning Ordinances and how many ADU's have been registered. Staff confirmed it has been in the ordinances since the 1990's and there have been no ADU's registered. Staff stated that in reviewing the past 5 years of permits there are about 20 permits issued for ADU's; however, staff stated that for the types of ADU's shown, permits often start as a garage or accessory use permit, or a home addition for an attached so it is very difficult to accurately track. Only a detached ADU intended to be an ADU prior to construction would come through permitting as an ADU.

L. Hallman asked what type of structures are permitted such as she-shed, tiny home, mobile home, etc. Staff stated that the structure must meet NC Building Residential code. It cannot be a mobile home, it cannot be on wheels, it has a minimum size requirement, and must meet the balance of Minimum Housing Code and Residential Building Code.

J. Sny commented that attainable housing is a focus of the Town Board and based on the data available, it is not being used. This amendment appears to be a clean-up, but it could also be inadvertently permitting multi-family uses.

L. Hallman commented that this was a recommendation by the task force commissioned in 2023 to find attainable housing. He shared that Mooresville purchased a home for attainable housing for a teacher to qualify to move there. He asked if staff knows why this was originally included in GR zoning and not the other zoning districts. Staff commented that they do not know why.

S. Hensley commented that he will not support the amendment because he believes the market is changing but he believes that there will be more and more attainable housing and he can see what it could do to older neighborhoods not in the protection of a homeowner's association and he would prefer to see how this plays out more with other areas.

L. Hallman commented that he lives in GR zoning and feels that the homes in that zoning are by and large not in an HOA, possibly not in covenants, larger lots, predominantly ranch homes, and many of the homes have had additions over the years. Zoning could permit a much larger home but the cost to build that would make the home no longer attainable unless someone was not charging market rate for rent and the quality of the housing, type of workforce you are housing, with no regulation on who is buying

the home, the type of structure, or the resident. He commented that in his opinion this is missing the 'protect' and 'partner' of the '4 – P's' identified by the task force because it would not be protecting the existing land use and inventory, and there is no partnership with the Town.

T. Loomis commented that this can also be an affordable method for some renters who are not ready to purchase a home and can also benefit homeowners that are looking to stay in their home and not have to sell.

L. Hallman shared comments regarding the overall situation and stated that while this is well intended it will be exploited in his opinion.

Motion: T. Loomis made a motion to Recommend Approval TA 24-07. The Planning Board recommends approval based on the amendment being consistent with the rules governing accessory dwelling units in other zoning districts. This provides realistic and enforceable regulations and the ability to make housing affordable. C. Boyd seconded the motion.

Vote: The motion tied (4-4) with G. Baber, J. Sny, S. Hensley & L. Hallman opposed.

The Board had discussion regarding their voting choices and areas of concern.

Motion: G. Baber made a motion to Reconsider the motion for TA24-07. J. Henson seconded the motion.

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

Vote (original motion): The motion passed (4-3-1) with J. Sny, J. Henson and L. Hallman opposed. S. Hensley abstained.

Other Business

Item 1A. Consider nominations and appointments of the Vice-Chair and Chair of the Planning Board.

G. Baber nominated J. Sny as Chair. J. Henson seconded. No other nominations were made.

Vote: The motion passed unanimously (7-0-1) with J. Sny abstaining.

C. Boyd nominated L. Hallman for Vice-Chair. S. Hensley seconded.

L. Hallman nominated G. Baber for Vice-Chair. G. Baber declined.

S. Hensley nominated C. Boyd for Vice-Chair. C. Boyd declined.

J. Sny nominated J. Henson for Vice-Chair. T. Loomis seconded.

Vote: The Board voted 4 votes for Jay Henson, 3 votes for Lee Hallman, and 1 vote to abstain.

The Board appointed J. Sny as Chair and J. Henson as Vice-Chair for a one-year term.

Adjourn

Motion: J. Henson made a Motion to Adjourn. J. Sny seconded the motion.

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

Approved this ____ day of _____ 2024.

Chairman or Vice Chairman

Board Secretary

§ 160D-907. Family care homes.

(a) The General Assembly finds it is the public policy of this State to provide persons with disabilities with the opportunity to live in a normal residential environment.

(b) As used in this section, the following definitions apply:

- (1) Family care home. – A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities.
- (2) Person with disabilities. – A person with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, an intellectual or other developmental disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including persons with a mental illness who are dangerous to others as defined in G.S. 122C-3(11)b.

(c) A family care home is deemed a residential use of property for zoning purposes and is a permissible use in all residential districts. No local government shall require that a family care home, its owner, or operator obtain, because of the use, a special use permit or variance from any such zoning regulation; however, a local government may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(d) A family care home is deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d); 2021-88, s. 9(k).)



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Patrick Patterson, Planner II

Subject: Petition #TA24-09 - Building Separation

EXPLAIN REQUEST:

Consider a decision on Petition #TA24-09 "Building Separation," a text amendment request by the Town of Huntersville Planning Department to amend Article 8.10 and Article 12.2.1 of the Huntersville Zoning Ordinance to closer align our rules regarding building separation to North Carolina Building Code Standards and North Carolina Residential Code Standards.

ACTION RECOMMENDED:

Consider a decision

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA24-09 Staff Report TB
2. Signed Application TA24-09
3. TA24-09 Ordinance
4. May 2, 2024 Minutes
5. August 27, 2024 Minutes-Planning Board

TA24-09 Building Separation

PART 1: DESCRIPTION

TA24-09 is a text amendment request by the Town of Huntersville Planning Department to amend Article 8.10 and Article 12.2.1 of the Huntersville Zoning Ordinance to closer align Huntersville Zoning regulations regarding building separation to North Carolina Building Code Standards and North Carolina Residential Code Standards.

PART 2: BACKGROUND

Article 8.10 of the Huntersville Zoning Ordinance contains requirements regarding building separation for principal and accessory structures. Staff is seeking to change building separation standards stated in the Huntersville Zoning Ordinance to reflect the North Carolina State Building Codes or North Carolina Residential Codes for building separation. This will simplify the zoning ordinance by referring to building code requirements for building separation and ensures that Huntersville won't need to amend the ordinance whenever building code standards are updated.

Additionally, the text amendment adds the definition of "Fire Separation Distance" into the ordinance, and replace all instances of "Building Separation" with "Fire Separation Distance." This adjustment is necessary because the North Carolina State Building Code and North Carolina Residential Code do not explicitly define building separation and instead define it as "Fire Separation Distance".

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

LU 10.1: Continue to encourage a mix of lot sizes in new developments.

Comment: The proposed text amendment seeks to increase attainable housing options and accommodate a mix of lot sizes, satisfying one of the land use policies of the Huntersville 2040 Community Plan.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment TA24-09 as it simplifies our zoning ordinance by deferring to North Carolina State Building Code Standards

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD RECOMMENDATION

On March 7, 2024, The Huntersville Ordinance Advisory Board recommended approval of TA24-09 with a vote of (8-0).

PART 6: PUBLIC HEARING

The Public Hearing was conducted on August 6th, 2024. No one from the public spoke for or against text amendment.

Link to livestream below.

<https://www.youtube.com/watch?v=5Wx6wgzRyQk&t=9082s>

PART 7: PLANNING BOARD RECOMMENDATION

On August 27th, 2024, The Planning Board recommended approval of TA24-09 with a vote of (8-0). Planning Board minutes are attached to this staff report.

https://www.youtube.com/watch?v=TBatcxgP_uY

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Proposed Ordinance
3. HOAB minutes
4. Planning Board Minutes

PART 9: STATEMENT OF CONSISTENCY – TA24-09

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA24-09, Planning Staff recommends approval based on consistency with L.U. 10.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it encourages a mix of lot sizes in new developments and increases site design flexibility.	APPROVAL: In considering the proposed amendment TA24-09, the Planning Board recommends approval based on the amendment being consistent with L.U. 10.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it is being directed by an authoritative source that would suggest that it is a safer and more protective method.	APPROVAL: In considering the proposed amendment TA24-09, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
DENIAL: N/A	DENIAL: N/A	DENIAL: In considering the proposed amendment TA24-09, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)



Text Amendment Application

Date of Application 4/19/2024

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

____ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

X Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Ordinance Article(s): See Attached Section(s): See Attached

Current Ordinance

See Attached

Proposed Text

See Attached

Reason for Proposed Change

Amend building separation distance to match building code standards

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Town of Huntersville Planning Department Staff

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature [Signature] Date 4/22/24

Title Planning Director Email b.nichols@huntersville.org

Address of Applicant _____

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____

Staff Initials: _____

**AN ORDINANCE TO AMEND ARTICLE 8, SECTION 10 “BUILDING SEPARATION”
AND ARTICLE 12, SECTION 12.2.1**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 8, Section 10 of the Zoning Ordinance is hereby amended as follows:

8.10 Building Separation-Fire-Separation Distance

All ~~detached~~ principal and accessory structures and buildings in all districts shall preserve a minimum ~~building separation~~ fire-separation distance of 10 feet compliant with North Carolina State Building Code requirements or NC Residential Code requirements, whichever may apply. ~~The requirement of the district to conform to an existing pattern of building spacing along a street may require a greater separation or the provision of specified side yards. All detached accessory structures in all districts shall maintain a minimum building separation of 4 feet, as measured from the overhang.~~

Section 2: Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12, Section 12.2.1 of the Zoning Ordinance is hereby amended as follows:

Fire Separation Distance. The distance measured from the building face to one of the following:

1. To the closest interior lot line.
2. To the centerline of a street, an alley or public way.
3. To an imaginary line between two buildings on the lot.

The distance shall be measured at a right angle from the face of the wall.

Section 3: This ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: 5/2/24

PUBLIC HEARING DATE:

PLANNING BOARD MEETING:

TOWN BOARD DECISION:

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Thursday, May 2, 2024.

Call to Order/Roll Call

Chairwoman Hallman called the meeting to order at 3:30 pm.

Voting Members Present: A. Hallman, K. Jones, M. Pollard, J. Palillo, J. Kluttz, S. Harrington, S. Hensley, and H. Whittaker

Voting Members Absent: M. Jones

Non-Voting Members Present: Commissioner Bergman, B. Richards, T. Barron, and E. Sloop.

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the March 7, 2024, Regular Meeting Minutes

Motion: S. Harrington made a Motion to Approve the March 7, 2024, regular meeting minutes as amended. H. Whittaker seconded the motion.

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

Public Comments

None

Action Agenda

4A. TA24-06: Proposed amendment to require farmhouse clusters to provide an 80-foot vegetative buffer and place open space and tree save outside of private buildable lots.

N. Farber, Planner II reviewed the proposed text amendment.

The Board confirmed the proposed buffer is only the buffer along the street frontage and not side or rear buffers, requirement would include landscaping the buffer with native plants, how the open space is currently enforced, and how this would adjust the flexibility of what the homeowner would be able to utilize the land that they purchase.

Motion: M. Pollard made a motion to recommend Approval of TA24-06. K. Jones seconded the motion.

S. Hensley commented that generally he is not in support of limiting personal property rights, but he can see the benefit of what is being proposed for the homeowner to be able to use their property and for the expectations of the trees that will remain.

Vote: The motion passed (7-1) with J. Palillo opposed.

4B. TA24-07: Proposed amendment to remove reference of family-only occupancy requirement for ADU's from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zoning districts.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed the allowed uses for the ADU, if there were any limitations regarding short-term rental and ADU's, and approximately how much General Residential zoning still remains in town, and what caused the text amendment to be proposed.

Motion: M. Pollard made a motion to recommend Approval of TA24-07. J. Palillo seconded the motion.

Vote: The motion passed (7-1) with A. Hallman opposed.

4C. TA 24-08: Proposed amendment to update language to clarify where an existing Family Care Home's exclusive one-half mile radius limit is measured from.

P. Patterson, Planner I reviewed the proposed text amendment that is not a required update due to North Carolina General Statutes.

The Board reviewed the current methodology and proposed changes, why this regulation exists, and expressed concern about the existing distance requirements as this is an important solution for an aging population seeking affordable housing.

Motion: S. Harrington made a motion to recommend Approval of TA24-08. J. Palillo seconded the motion.

A. Hallman commented that it does appear that this Board is being asked to recommend a text amendment in full and not in part even though a portion of the text amendment is not being heard by the Board as it relates to statute changes.

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

4D. TA24-09: Proposed amendment to Article 8.10 "Building Separation" and Article 12, Section 12.2.1, to align with fire-separation distance as defined in the North Carolina State Building Code.

P. Patterson, Planner I reviewed the proposed text amendment.

The Board confirmed that the full and complete building code outlines the requirements and must be met through a building permit.

Motion: J. Palillo made a motion to recommend Approval of TA24-09. J. Klutz seconded the motion.

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

Other Business

J. Palillo announced his resignation from the Ordinance Advisory Board due to personal time conflicts effective immediately. He thanked everyone for the opportunity to be on the Board. The Board thanked him for his service and commented on the value of his first-hand experience to the discussions.

Adjourn

Motion: J. Palillo made a Motion to Adjourn. M. Pollard seconded the motion.

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

Approved this ____ day of _____ 2024.

Chair or Vice Chair

Board Secretary

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, August 27, 2024.

Call to Order/Roll Call

Chairman Sny called the meeting to order at 6:30 pm.

Present: J. Sny, F. Gammon, C. Boyd, J. Henson, S. Hensley, L. Hallman, G. Baber & T. Loomis

Absent: J. Wright

Motion: J. Sny made a motion to Amend the Agenda and hear Item 1.A. as Other Business and Item 4.D. as the last Action Item. C. Boyd seconded the motion.

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

Approval of Minutes

Item 2A. Consider approval of the June 25, 2024, Regular Meeting Minutes

Motion: L. Hallman made a Motion to Approve the June 25, 2024, minutes. J. Henson seconded the motion.

Vote: The motion passed unanimously (6-0-2) with G. Baber and M. Pollard abstaining.

Public Comments:

W. DuPriest, Huntersville

E. McCormack, Huntersville

R. Hahn, Huntersville

D. Boone, Huntersville

Recusal: S. Hensley notified the Board that he has a conflicting interest in Item 4A and requested to be recused.

Motion: J. Henson made a motion to recuse S. Hensley from the current item on the agenda. L. Hallman seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Action Items

Item 4A: Consider a recommendation on Petition #R24-03 Long Creek Retail, a request by Saleh Moflehi of TA&S Enterprises of NC Inc. to rezone +/- 4.39 acres located at the intersection of Mt. Holly-Huntersville Road and Beatties Ford Road from Highway Commercial-Conditional District to Highway Commercial-Conditional District for an amendment to rezoning #R08-01 for a convenience store and retail/commercial use development.

J. James, Principal Planner notified the Board that the applicant has requested to continue the item to the September 24, 2024, Planning Board meeting.

Motion: G. Baber made a motion to Defer R24-03 to the September 24, 2024, Planning Board meeting. C. Boyd seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Motion: M. Pollard made a motion to reseal S. Hensley. T. Loomis seconded the motion.

Vote: The motion passed unanimously (7-0) with S. Hensley not voting.

Recusal: J. Henson notified the Board that he has a conflicting interest in Item 4B and requested to be recused.

Motion: L. Hallman made a motion to recuse J. Henson from item 4B. T. Loomis seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Item 4B: Consider a recommendation on Petition #R24-04 Northbrook Storage, a request by Jake Palillo on behalf of Bi-Part Development LLC to rezone +/- 21.936 acres located on Sam Furr Road from Corporate Business to Special Purpose-Conditional District for a storage facility and other commercial uses.

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 and stated that the application completed a resubmittal of plans on August 19, 2024, with the staff report due on August 20, 2024, the latest submission has not had a complete review.

G. Baber reviewed the requested modifications, staff's support or non-support of modifications, and how staff would ensure that proposed agreements would be kept if they are not yet reviewed or confirmed. Regarding concerns expressed by the public, G. Baber asked if the applicant would be installing a traffic control light. Staff confirmed that NCDOT would have to make that determination and it would not be likely due to the design of a super street with the goal of moving traffic along Highway 73 that a traffic light would be required.

T. Loomis commented that the public has expressed an interest in having retail and restaurants in this area and asked if the proposed rezoning would permit those uses. Staff confirmed that the commercial rezoning would permit those uses.

C. Boyd asked how the TIA is complete when the uses have not been finalized for all of the parcels and why doesn't the TIA take into account the neighborhood traffic that will use this access point. Staff stated that the TIA was deferred to NCDOT since the project primarily fronts on NCDOT roads with a storage facility and business park indicated as the uses to give broad coverage. One of the comments staff has added is that if a daycare center is being proposed then it will need to be vetted through NCDOT to confirm the TIA findings have not adjusted.

C. Boyd asked why the communication tower is still an allowed use. Staff commented that this use and commercial kennels have buffer requirements that make them not a viable option for these parcels, so they were not specifically removed.

L. Hallman asked if buffer modification is still be requested after the realignment of building C. Staff confirmed that building C is as close to the road as possible given the utility easements and the buffer modifications are still being requested.

J. Snyder confirmed that the proposed buffer is 35' and asked staff to confirm that if the conditional rezoning is approved by the Town Board if the applicant would still have the by right option within the

zoning for the list of uses that would be allowed. Staff confirmed that is correct unless the Town Board in their motion chooses to remove allowed uses from the parcels as part of the condition and as staff is recommending.

S. Hensley reviewed that automotive country club and hotel/motel would be allowed today as by right development and an advantage of this process is that the Town can more narrowly define what is allowed on these parcels. Staff confirmed that is correct.

Applicant J. Pallilo, Cornelius presented the proposed development.

M. Pollard asked the applicant to explain the proposed traffic movement that NCDOT has approved. The applicant reviewed the proposed traffic movement of right in, right out only movement with the uses of the U-turn bulbs along Highway 73.

G. Baber asked if NCDOT has commented regarding a traffic light at Oak Farm Road. The applicant responded that the traffic lights will be at the U-turn bulbs and the school could potentially get one because they are a school.

S. Hensley asked if the second modification request is still active for the pet park. That modification is no longer being requested. The buffer modifications and modification for the daycare center playground fronting Maple Branch and Highway 73 are still being requested. The applicant confirmed that they have a tenant that sells dog food and provides vet services interested in leasing space, so they are not interested in having the applicable use removed.

L. Hallman asked the applicant if the TIA was completed with the current uses. The applicant stated that the modified uses will be resubmitted to NCDOT and they will let the applicant know what is required, those requirements are not optional.

J. Sny asked the applicant if he would like to defer given the substantial amount of information that has been changed or is not available to the Board to review. The applicant stated that they have already agreed to the items the staff has commented on and the playground buffer and landscape is the only new item for consideration. S. Hensley followed up and stated the new set of plans may have been submitted but staff has not been able to complete a review and it is not presented to the Board. The applicant stated that there isn't really anything new or different that will be submitted, the information is there, and they have already agreed to the areas of concern brought up by staff.

C. Boyd asked who owns the roads, Maple Branch and Oak Farm and River Race Drive. Staff confirmed that the roads have not, yet all been annexed but will be Town roads. Staff confirmed that those are public streets and there are limitations to what can be done. Potentially the Town could investigate posting weight limit signs. The roads are designed at the outset to reduce a number of problems, in the event that one still occurs and is reported, then a traffic study could be conducted to determine if calming devices should be installed.

L. Hallman asked staff to review what would be different between the current site plan that the Board is reviewing, and the last site plan submitted if they had to write a staff report today. Staff outlined the

major differences being the daycare and playground modification with no follow up opportunity for staff to have of the negotiation conversations regarding the conditional element of the modification with the applicant.

J. Sny asked the applicant to confirm if they were asking for a modification for parcel A on a site plan that has not been presented to the Board. The applicant confirmed that is correct. The Board followed up with concerns regarding staff's inability to fully review the site plan, a request for undocumented modifications, the lack of hard copy for the requests before the Board, and the inability for staff to negotiate on the conditions given the time frame of the request. The applicant requested a deferral of 30 days for staff to have time to complete these actions.

Motion: T. Loomis made a motion to Defer R24-04 Northbrook Storage to September 24, 2024. M. Pollard seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Motion: C. Boyd made a motion to reseal J. Henson. L. Hallman seconded the motion.

Vote: The motion passed unanimously (7-0) with J. Henson not voting.

Item 4C: Consider a recommendation on Petition #TA24-06 "Farmhouse Cluster Changes," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.1(e), 3.2.2(e), 3.2.1(d)3(c), 3.2.2(d)3(c), and 12.2.1 "Open Space" of the Huntersville Zoning Ordinance to make changes to Farmhouse Clusters and Open Space.

N. Farber, Senior Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the proposed text amendment.

S. Hensley asked how we define, 'if vegetation exists.' Staff responded that the applicant is required to submit an existing conditions survey. The existing conditions could be a variety of natural features such as meadows, grasses, trees, understory, etc.

J. Henson commented that he struggled with this proposal. By the time you meet the regulations of open space, tree save and the road within the allowed 6 lots on 10 acres, you end up with approximately ¾ acre lots. He reviewed previous farmhouse clusters that his firm worked on and determined that this amendment would adjust an average lot size of 1 acre down to ¾ or .7 acres. While he appreciates the need to protect the trees and tree save, he commented on the stormwater effects on these lots, the fact that these developments typically have septic systems so the combination of the two really eats up a lot of the land available. As an alternative he offered up looking at increasing the penalties for tree save removal. Staff responded that they want to be careful about taxation since the goal is to really save the trees. If the tree is cut down there is no quick replacement, the tree is just gone for 20 years. If the home is sold and resold, how informed are the homeowners? Mature native space was a priority of the 2040 Plan and the focus of the amendment is to preserve the trees.

J. Henson asked if there was a consideration to have open space on the lot and tree save not on the lot. Staff reviewed the challenges with that and why staff chose not to take that approach. Staff also stated that the minimum requirement is 10 acres, so developers also have the option to increase their total land area as a means to achieve larger lot sizes.

L. Hallman asked staff to review then where the proposed tree save would be located. Staff explained that the developer would have to identify the tree save area within the entire development but not within the buildable lot. The buildable lots may be smaller but still within the 10-acre total development.

Motion: S. Hensley made a motion to Recommend Approval of TA24-06 the Planning Board recommends approval based on the text amendment being consistent with LU9.2, EOS 3.1 and EOS6.1 of the 2040 Huntersville Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it provides higher quality open space and helps to ensure owners within a farmhouse cluster that the open space will remain open space and not be disturbed and ensure the preservation and rural character which complies with the Huntersville 2040 Plan. T. Loomis seconded the motion.

S. Hensley commented that he lives in a farmhouse cluster and that he would like to think that whatever open space is supposed to be there that one of his neighbors cannot go and reduce that open space so that his private property rights are protected, and the character of the development remains the same.

Vote: The motion passed (7-1) with J. Henson opposed.

Item 4E: Consider a recommendation on Petition #TA24-08 “Family Care Home,” a text amendment request by the Town of Huntersville Planning Department to amend Article 12, Section 12.2.1 of the Huntersville Zoning Ordinance to update the language to specify where a Family Care Home’s one-half mile radius distance is measured from.

P. Patterson, Planner II 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 proposed text amendment.

Motion: L. Hallman made a motion to Recommend Approval of TA-24-08, the Planning Board recommends approval based on the consistency with all policies of the Huntersville 2040 Community Plan and its compliance with state statutes. It is reasonable and in the public interest to amend the zoning ordinance because it will provide further clarification to the language. C. Boyd seconded the motion.

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

Item 4F: Consider a recommendation on Petition #TA24-09 “Building Separation,” a text amendment request by the Town of Huntersville Planning Department to amend Article 8.10 and Article 12.2.1 of the Huntersville Zoning Ordinance to closer align our rules regarding building separation to North Carolina Building Code Standards and North Carolina Residential Code Standards.

P. Patterson, Planner II 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 text amendment.

Motion: M. Pollard made a motion to Recommend Approval of TA24-09 to amend Article 8.10 and Article 12.2.1 to be revised as follows, all principal structures in all districts shall be in compliance with NC Building Code Requirements in section 8.10. In section 2 of article 12.2.1 it shall be amended to, Fire separation Distance. The distance measured from the building face to one of the following: 1. To the closest interior lot line. 2. To the centerline of a street, an alley or public way. 3. To an imaginary line between two buildings on the lot. The distance shall be measured at a right angle from the face of the

wall. It is reasonable and in the public interest to amend the zoning ordinance because it is being directed by an authoritative source that would suggest that it is a safer and more protective method. J. Sny seconded the motion.

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

Item 4G: Consider a recommendation on Petition #TA24-12: Proposed text amendment to modify or remove uses requiring a Special Use Permit, affecting Articles 3 and 9 of the Huntersville Zoning Ordinance.

B. Priest, Assistant 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 text amendment.

S. Hensley confirmed that the proposed CD Rezoning is the same process that we have now and asked how it could potentially affect the applicant. Staff confirmed it is the same CD Rezoning process with notifications to the public, public hearing, signage and Board approval. It could potentially take longer for the applicant to get through the process based on negotiations and how those occur, but it would also allow for more free flowing communication which could also have the effect of keeping it on the same or similar timeline with a more effective outcome.

Motion: C. Boyd made a motion to Recommend Approval of TA24-12 based on the consistency with the policies LU-8 of the Huntersville 2040 Community Plan. It is reasonable and in the public's interest to amend the zoning ordinance because it will give the public greater opportunities to discuss the application with the Town Board while at the same time making sure appropriate review processes are in place for uses that may have a greater than normal impact on adjacent properties. T. Loomis seconded the motion.

L. Hallman thanked staff for this amendment as the quasi-judicial process was stifling residents that would like to have some input.

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

Item 4D: Consider a recommendation on Petition #TA24-07 "Accessory Dwelling Units in General Residential," a text amendment request by the Town of Huntersville Planning Department to amend Article 3.2.3(c) of the Huntersville Zoning Ordinance to remove the family-only occupancy requirement from the General Residential zoning district regulations to achieve consistency with the rules governing ADU's in other residential zones.

P. Patterson, Planner II 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 text amendment.

T. Loomis asked what would happen to an ADU if a hedge fund purchased a home that had an ADU. Staff confirmed that the owner of the property would be able to lease out the single-family home and the ADU.

M. Pollard shared insights from experiences in other municipalities to address this issue.

C. Boyd asked what portion of the Huntersville zoning is within the GR zoning. Staff commented that GR zoning is a relatively small portion of the residential zoning, would never apply to a new development, and only applies to homes or lots that were developed under the County.

J. Sny asked the Staff attorney if we have the authority to require the familial designation, and if there are any known methods to address businesses purchasing real estate. Legal staff responded that there have been NC School of Government articles that this can be designated but is very difficult to enforce. Any legal limitations to businesses purchasing homes would have to be enacted at the State level and there are no known legal methods to address that at this time.

J. Henson asked if anyone has ever been denied an ADU permit because they could not prove that it was for a family member. Staff confirmed that to their knowledge, no, that has never been the case.

L. Hallman asked when the ADU language was included in the Zoning Ordinances and how many ADU's have been registered. Staff confirmed it has been in the ordinances since the 1990's and there have been no ADU's registered. Staff stated that in reviewing the past 5 years of permits there are about 20 permits issued for ADU's; however, staff stated that for the types of ADU's shown, permits often start as a garage or accessory use permit, or a home addition for an attached so it is very difficult to accurately track. Only a detached ADU intended to be an ADU prior to construction would come through permitting as an ADU.

L. Hallman asked what type of structures are permitted such as she-shed, tiny home, mobile home, etc. Staff stated that the structure must meet NC Building Residential code. It cannot be a mobile home, it cannot be on wheels, it has a minimum size requirement, and must meet the balance of Minimum Housing Code and Residential Building Code.

J. Sny commented that attainable housing is a focus of the Town Board and based on the data available, it is not being used. This amendment appears to be a clean-up, but it could also be inadvertently permitting multi-family uses.

L. Hallman commented that this was a recommendation by the task force commissioned in 2023 to find attainable housing. He shared that Mooresville purchased a home for attainable housing for a teacher to qualify to move there. He asked if staff knows why this was originally included in GR zoning and not the other zoning districts. Staff commented that they do not know why.

S. Hensley commented that he will not support the amendment because he believes the market is changing but he believes that there will be more and more attainable housing and he can see what it could do to older neighborhoods not in the protection of a homeowner's association and he would prefer to see how this plays out more with other areas.

L. Hallman commented that he lives in GR zoning and feels that the homes in that zoning are by and large not in an HOA, possibly not in covenants, larger lots, predominantly ranch homes, and many of the homes have had additions over the years. Zoning could permit a much larger home but the cost to build that would make the home no longer attainable unless someone was not charging market rate for rent and the quality of the housing, type of workforce you are housing, with no regulation on who is buying

the home, the type of structure, or the resident. He commented that in his opinion this is missing the 'protect' and 'partner' of the '4 – P's' identified by the task force because it would not be protecting the existing land use and inventory, and there is no partnership with the Town.

T. Loomis commented that this can also be an affordable method for some renters who are not ready to purchase a home and can also benefit homeowners that are looking to stay in their home and not have to sell.

L. Hallman shared comments regarding the overall situation and stated that while this is well intended it will be exploited in his opinion.

Motion: T. Loomis made a motion to Recommend Approval TA 24-07. The Planning Board recommends approval based on the amendment being consistent with the rules governing accessory dwelling units in other zoning districts. This provides realistic and enforceable regulations and the ability to make housing affordable. C. Boyd seconded the motion.

Vote: The motion tied (4-4) with G. Baber, J. Sny, S. Hensley & L. Hallman opposed.

The Board had discussion regarding their voting choices and areas of concern.

Motion: G. Baber made a motion to Reconsider the motion for TA24-07. J. Henson seconded the motion.

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

Vote (original motion): The motion passed (4-3-1) with J. Sny, J. Henson and L. Hallman opposed. S. Hensley abstained.

Other Business

Item 1A. Consider nominations and appointments of the Vice-Chair and Chair of the Planning Board.

G. Baber nominated J. Sny as Chair. J. Henson seconded. No other nominations were made.

Vote: The motion passed unanimously (7-0-1) with J. Sny abstaining.

C. Boyd nominated L. Hallman for Vice-Chair. S. Hensley seconded.

L. Hallman nominated G. Baber for Vice-Chair. G. Baber declined.

S. Hensley nominated C. Boyd for Vice-Chair. C. Boyd declined.

J. Sny nominated J. Henson for Vice-Chair. T. Loomis seconded.

Vote: The Board voted 4 votes for Jay Henson, 3 votes for Lee Hallman, and 1 vote to abstain.

The Board appointed J. Sny as Chair and J. Henson as Vice-Chair for a one-year term.

Adjourn

Motion: J. Henson made a Motion to Adjourn. J. Sny seconded the motion.

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

Approved this ____ day of _____ 2024.

Chairman or Vice Chairman

Board Secretary



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Brad Priest, Assistant Planner Director

Subject: Petition #TA24-12 - Special Use Permit Use amendments

EXPLAIN REQUEST:

Petition #TA24-12 is a request by the Huntersville Planning Department for a text amendment to modify uses requiring a Special Use Permit, affecting Articles 3 and 9 of the Huntersville Zoning Ordinance.

ACTION RECOMMENDED:

Consider taking final action on TA24-12

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA24-12 Staff Report FA - 9 17 24
2. TA24-12 SUP Ordinance - TB
3. TA24-12 Application

TA24-12 Special Use Permit Uses – Process Amendment

PART 1: DESCRIPTION

TA24-12 is a request by the Huntersville Planning Department to amend several sections of the Huntersville Zoning Ordinance. The purpose of the amendment is to transfer selected uses from being permitted by Special Use Permit, to permitted by Conditional District Rezoning, with Conditions, and to delete some uses permitted by Special Use Permit.

PART 2: BACKGROUND

For a few years, the Town Board has expressed their desire for staff to look for ways to reduce the amount of quasi-judicial applications appearing before the Board. Quasi-judicial reviews and applications have specific legal mandates on how they are to be conducted. These legal requirements from the North Carolina General Statutes make it more difficult for both applicants and adjacent property owners to give and receive meaningful feedback to or from the Town Board outside of the quasi-judicial hearing. This limits the applicant's ability to get preliminary feedback on their application, and adjacent property owners from expressing their concerns to the Board. In addition, adjacent property owners may not be permitted to be involved in the quasi-judicial hearing if they do not meet the very specific standards of becoming a "Party" to the application.

Therefore, in August 2022, the Town Board approved a text amendment from staff changing the approval of major subdivisions from a quasi-judicial review to an administrative review approved by staff. This amendment expedited major subdivision reviews and removed the need for large subdivisions of land to go before the Town Board. Currently, many uses in the zoning ordinance are still only allowed with the issuance of a Special Use Permit (SUP), which are also quasi-judicial reviews. These uses are generally regarded as potentially having a greater than normal effect on adjacent properties, and thus require a higher standard of review by the Town Board.

Thus, continuing the effort to reduce quasi-judicial applications as much as possible, staff is proposing to change how some of these uses are processed. Many Special Use Permit uses that are likely to have an environmental impact, or larger than normal effect on adjacent properties are proposed to stay as Special Use Permit uses. Uses such as Halfway Houses, Wind Energy Facilities, Landfills, etc. would still be required to obtain a permit from the Town Board. However, uses with less of an impact, and which already have a substantial number of conditions attached to them in Article 9 of the ordinance would change. Uses such as Hotels, Dormitories, Banquet Facilities, Schools, and others are proposed to be modified.

Staff understands that some uses which may have a reduced effect on adjacent properties may still be appropriate for a Town Board review. Rather than reviewing these uses through a quasi-judicial process such as an SUP however, staff proposes these uses be reviewed through the legislative Conditional District Rezoning process. For instance, the condition for Hotels in the Highway Commercial (HC) district in Article 9 states that the hotel property must be 250 feet from a residentially zoned lot. If it's closer than that, the proposed amendment would make that use application a Conditional District Rezoning review. This would still be a Town Board review, but not quasi-judicial. Other uses such as Banquet Facilities in the Rural (R) district are proposed to be approved with conditions only (an administrative review by staff) due to the conditions associated with those uses being extensive. Such conditions would substantially protect adjacent property

owners, making Special Use Permit review redundant. Other uses such as Country Inn Developments staff proposes to delete as they've never been used or developed since the use was added into the ordinance.

In summary, the proposed amendment would reduce Special Use Permit reviews that may not be needed and modify other uses as Conditional District Rezoning that may merit additional Town Board review.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

TA-24-12 is consistent with the following Huntersville 2040 Community Plan policies.

- **LU-8: Emphasize form and flexibility in Mixed-Use Centers, Employment Centers, the Town Core, and Activity Centers.** *Staff Comment:* The proposed amendment would transfer some reviews from Special Use Permit to Conditional District Rezoning reviews. This change for certain uses increases ordinance flexibility because through the CD Rezoning process, the Town Board can modify ordinance standards for excellent design and projects with public benefit.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment due to its consistency with policies LU-8 of the Huntersville 2040 Plan. TA24-12 would provide greater flexibility to specific uses through the conditional rezoning process while at the same time encouraging extraordinary design.

It is reasonable and in the public interest to approve the application because it will allow both the applicant and adjacent property owners greater ability to discuss the application with the Town Board as needed, while at the same time making sure appropriate review processes are in place for uses that may have a greater than normal effect on adjacent properties.

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD-

On July 11, 2024, the Huntersville Ordinance Advisory Board unanimously recommended to approve the application. Please find the YouTube link to the meeting discussion attached.

https://www.youtube.com/watch?v=QdlaF1HoS_g

PART 6: PUBLIC HEARING

The Public Hearing was held on August 6, 2024. No one from the public spoke for or against the application. Please find the YouTube link to the meeting attached. <https://www.youtube.com/watch?v=5Wx6wgzRyQk>

PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board reviewed the application on August 27, 2024. After discussion, the Board unanimously recommended approval of the application. Please find the YouTube link to the discussion here.

https://www.youtube.com/watch?v=TBatcxgP_uY&t=9535s

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Proposed Ordinance

PART 9: STATEMENT OF CONSISTENCY – TA24-12

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA24-12, Planning Staff recommends approval based on consistency with policies LU-8 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to approve the application because it will allow both the applicant and adjacent property owners greater ability to discuss the application with the Town Board as needed, while at the same time making sure appropriate review processes are in place for uses that may have a greater than normal effect on adjacent properties	APPROVAL: In considering the proposed amendment TA24-12, the Planning Board recommends approval based on the amendment being consistent with policy LU-8 of the Huntersville 2040 Community Plan. It is reasonable and in the public's interest to amend the zoning ordinance because it will give the public greater opportunities to discuss the application with the Town Board while at the same time making sure appropriate review processes are in place for uses that may have a greater than normal impact on adjacent properties.	APPROVAL: In considering the proposed amendment TA24-12, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...<i>(Explain)</i>
DENIAL: N/A	DENIAL: N/A	DENIAL: In considering the proposed amendment TA24-12, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because.... <i>(Explain)</i>

AN ORDINANCE TO AMEND ARTICLE 3 & ARTICLE 9 OF THE HUNTERSVILLE ZONING ORDINANCE

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 3, Section 3.2.1(a)** of the Huntersville Zoning Ordinance is hereby amended as follows:

Permitted Uses.

Uses permitted by right.

- bed and breakfast inn
- boarding or rooming houses for up to two roomers
- family care home
- single-family detached homes

Uses permitted with conditions.

- cemeteries, (9.7)
- religious institutions, (9.8)
- commercial communication towers, (9.9)
- duplexes up to 10% of dwelling units in development, (9.13)
- essential services 1 and 2, (9.14)
- government buildings up to 5,000 sq. ft. of gross floor area; fire stations are permitted in government buildings up to 15,000 sq. ft. of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)
- plant nurseries, (9.46)
- riding academies and/or commercial stables, (9.33)
- schools, (9.35)
- transit shelters, (9.39)
- banquet facility, (9.59)
- dormitory for a bona fide farm (9.62)

Uses permitted with Special Use Permit.

- agricultural industry, (9.3)
- ~~banquet facility, (9.59)~~
- ~~commercial communication towers (9.9)~~
- ~~commercial par 3 golf course and / or golf driving range (9.61)~~
- ~~dormitory for a bona fide farm (9.62)~~
- ~~off-site catering services performed in an agritourism facility (9.60)~~

- solar energy facility, major, (9.54)
- wind energy facility, major, (9.53)
- wind energy facility, minor, accessory (9.53)

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 3, Section 3.2.2(a)** of the Huntersville Zoning Ordinance is hereby amended as follows:

Permitted Uses.

Uses permitted by right.

- bed and breakfast inns
- boarding or rooming houses for up to two roomers
- family care home
- single family detached homes

Uses permitted with conditions.

- cemeteries, (9.7)
- religious institutions, (9.8)
- duplexes up to 20% of dwelling units in development, (9.13)
- essential services 1 and 2, (9.14)
- government buildings up to 5,000 sq. ft. of gross floor area; fire stations are permitted in government buildings up to 15,000 sq. ft. of gross floor area
- neighborhood and outdoor recreation, (9.21)
- parks, (9.29)
- plant nurseries, (9.46)
- riding academies and/or commercial stables, (9.33)
- schools, (9.35)
- transit shelters, (9.39)
- dormitory for a bona fide farm (9.62)

Uses permitted with Special Use Permit.

- agricultural industry, (9.3)
- ~~• country inn development (9.52)~~
- ~~• dormitory for a bona fide farm (9.62)~~
- solar energy facility, major, (9.54)
- wind energy facility, major, (9.53)
- wind energy facility, minor, accessory, (9.53)

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 3, Section 3.2.6(b)** of the Huntersville Zoning Ordinance is hereby amended as follows:

a. Permitted Uses.

Uses permitted by right.

- bed and breakfast inns
- boarding or rooming houses for up to six roomers
- civic, fraternal, cultural, community, or club facilities
- commercial uses
- congregate housing designed within the “civic” building type
- family care home
- government buildings
- hotels
- indoor amusement
- nightclubs, music clubs, bars, and similar entertainment facilities
- single family homes

Uses permitted with conditions.

- automobile and/or motorcycle sales, automobile service and repair, up to 2 acres in size, with a principal building of at least 8,000 sq. ft., all damaged vehicles and auto parts to be screened opaque (9.25)
- cemeteries, (9.7)
- religious institutions, (9.8)
- essential services 1 and 2, (9.14)
- neighborhood gasoline stations, excluding major service and repair of motor vehicles (9.22)
- parking lot as principal use (9.28)
- parks, (9.29)
- schools, (9.35)
- temporary mobile food sales (9.37)
- temporary outdoor sales of seasonal agricultural products and customary accessory products (example: farmers’ markets, Christmas tree/pumpkin sales), (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)
- multi-family homes (9.64)

Uses permitted with Special Use Permit.

- wind energy facility, minor, accessory, (9.53)

b. Permitted Building and Lot Types.

- apartment
- attached house
- civic
- detached house
- mixed use¹ up to 50,000 sq. ft. of first floor area; larger buildings may be permitted with ~~special-use permit~~ conditional rezoning
- storefront up to 50,000 sq. ft. of first floor area; larger buildings may be permitted with ~~special-use permit~~ conditional rezoning
- workplace up to 50,000 sq. ft. of first floor area; larger buildings may be permitted with ~~special-use permit~~ conditional rezoning

c. Permitted Accessory Uses.

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- drive through windows, excluding those associated with restaurants, (9.12)
- home occupation, (9.19)
- solar facility, minor non-residential (9.54)
- solar energy facility, minor residential (9.54)
- stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage expressly prohibited²
- accessory uses permitted in all districts, (8.11)

d. General Requirements. Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

1. buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
2. buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. The definition of massing in Article 12 illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
3. Subsection 3.2.6(d)(1)(a)-(b) shall not apply to development on parcels where multifamily structures are an allowable use and the development contains two or more affordable housing units for families or individuals with incomes below eighty percent (80%) of the area median income.

4. Nothing in this subsection shall be interpreted to conflict with the building design element provision as found in N.C.G.S. 160D-702(b) for structures subject to the North Carolina Residential Code.

On new streets, allowable building and lot types will establish the development pattern.

1. In major subdivisions and planned developments, the aggregate number of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings shall not exceed 30 percent of the total number of dwelling units in a project.
2. (Reserved)
3. New construction favors retail on first floor, office and/or residential on upper floors.
4. Every building lot shall have frontage upon a public street or urban open space.
5. **Minimum Height.** Mixed Use, Storefront and Workplace Buildings. New construction shall be a minimum of two stories for buildings fronting on the following roads:
 - Gilead Road- From Sherwood Drive to Old Statesville Road (NC 115)
 - Huntersville-Concord Road- From Old Statesville Road (NC 115) to Main Street
 - Old Statesville Road (NC 115) - From 400 feet north of the intersection of Gilead Road/Huntersville-Concord Road to Greenway Drive
 - Main Street- From Huntersville-Concord Road to Greenway Drive
6. See Section 8.16, Standards for Residential Lot Widths, Alleys, Garages and Parking in Residential Districts.

¹ The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

² Items for outdoor sales are returned to building at end of each business day; goods not brought in at close of business day are considered outdoor storage.

Section 4. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 3, Section 3.2.7(a)** of the Huntersville Zoning Ordinance is hereby amended as follows:

(a) Permitted Uses.

Uses permitted by right.

- amusement facilities: all indoor uses
- armories for meetings and training of military organizations
- auction sales
- boarding or rooming houses for up to six roomers
- religious institutions
- civic, fraternal, cultural, community, or club facilities
- commercial uses
- contractor offices and accessory storage yards, excluding the storage of general construction equipment and vehicles
- family care home
- government buildings
- indoor and outdoor recreation
- nightclubs, music clubs, bars, and similar entertainment facilities
- pawnshops and second-hand shops
- single family homes
- vocational and technical schools
- wholesale sales with related office, storage and warehousing entirely within an enclosed building; truck terminals not permitted

Uses permitted with conditions.

- adult establishments, (9.2)
- amusement facilities, outdoor, limited to par 3 golf courses, golf driving ranges, and archery ranges, (9.5)
- car wash, (9.6)
- commercial marinas, (9.43)
- day care center, (9.11)
- essential services 1 and 2, (9.14)
- gasoline service stations, including service and repair of motor vehicles, (9.22)
- hotels spaced 250' or more from residential or mixed-use zones, (9.45)
- parks, (9.29)
- temporary outdoor sales of seasonal agricultural products (example: Christmas tree/pumpkin sales), (9.37)
- temporary mobile food sales, (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)

- vehicle and boat service, rental, cleaning, mechanical repair, and body repair, (9.25; 9.26)
- multi-family homes (9.64)

Uses permitted with special use permit.

- crematoriums, accessory, (9.56)
- halfway houses (9.55)
- ~~• hotels spaced less than 250' from residential or mixed-use zones, (9.45)~~
- ~~• hotels exceeding permitted building height, (9.45)~~
- wind energy facility minor, accessory, (9.53)

Section 5. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 3, Section 3.2.9(a)** of the Huntersville Zoning Ordinance is hereby amended as follows:

(a) Permitted Uses.

Uses Permitted by Right.

- office
- distributive businesses
- inns
- laboratories and research facilities
- manufacturing and assembly, excluding heavy manufacturing
- government buildings
- warehouses, except mini-warehouse storage
- wholesale sales
- vocational and technical schools

Uses Permitted With Conditions.

- automotive country club, (9.57)
- day care center, (9.11)
- commercial communication tower, (9.9)
- essential services 1 and 2, (9.14)
- ~~• hotels and motels spaced 250' or more from residential or mixed-use zones, (9.45)~~
- parks, (9.29)
- schools (9.35)
- temporary mobile food sales, (9.37)
- transit-oriented parking lots as a principal use, (9.49)
- transit shelters, (9.39)

Uses Permitted with Special Use Permit.

- ~~hotels and motels spaced less than 250' from residential or mixed use zones (9.45)~~
- ~~schools (9.35)~~
- wind energy facility, minor (accessory) (9.53)

Section 6. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 3, Section 3.2.13(a) and 3.2.13(c)** of the Huntersville Zoning Ordinance is hereby amended as follows:

(a) Permitted Uses.

Uses permitted by right.

- bed and breakfast inns
- boarding or rooming houses for up to six roomers
- civic, cultural, and neighborhood recreation facilities up to 15,000 sq. ft. of gross floor area, minimum FAR of .35
- conference centers, up to 15,000 sq. ft. of gross floor area, minimum FAR of .35
- dormitories
- family care home
- financial institutions up to 6,000sq. ft. of gross floor area
- government buildings up to 8,000sq. ft. of gross floor area, minimum FAR of .35
- indoor motions pictures, limited to one (1) screen
- inns
- multi-family homes
- offices, general, medical, professional, minimum FAR of .35
- personal, professional, and technical services up to 8,000 sq. ft. of gross area, minimum FAR of .35
- research and development services, minimum FAR of .35
- restaurants without drive-through windows, up to 8,000 sq. ft. of gross floor area, minimum FAR of .35
- retail establishments, up to 8,000 sq. ft. of gross area, minimum FAR of .35
- greenways
- single family homes
- squares, plazas, or other formal open spaces not exceeding 1/2 acre in area
- stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage expressly prohibited¹.
- taverns and bars, up to 6,000 sq. ft. of gross floor area, minimum FAR of .35
- transit stations
- workshops and studios for the design and manufacture of art, craft and artisan products, up to 8,000 sq. ft. of gross area, minimum FAR of .35

Uses permitted with a Special Use Permit.

- ~~any non-residential use permitted by right or with conditions where size of first floor area exceeds 15,000 sq. ft., (9.47)~~
- ~~any permitted non-residential use or collection of non-residential uses that exceeds the maximum permitted in the district by paragraph e) 5) of this section, (9.47)~~
- ~~parking lot or structure as principal use (9.47)~~
- ~~schools (9.35)~~
- ~~wind energy facility, minor, accessory, (9.53)~~

Uses permitted with conditions.

- any non-residential use permitted by right or with conditions where size of first floor area exceeds 15,000 sq. ft., (9.47)
- any permitted non-residential use or collection of non-residential uses that exceeds the maximum permitted in the district by paragraph e) 5) of this section, (9.47)
- ~~banks, up to 6,000 sq. ft. of gross floor area~~
- ~~religious institutions up to 300 seats in the largest place of assembly, (9.8)~~
- ~~civic, cultural, and neighborhood recreation facilities up to 15,000 sq. ft. of gross floor area, minimum FAR of .35~~
- ~~conference centers, up to 15,000 sq. ft. of gross floor area, minimum FAR of .35~~
- ~~day care centers up to 8,000 sq. ft. of gross floor area (9.411)~~
- ~~essential services 1 and 2, (9.14)~~
- ~~government buildings up to 8,000 sq. ft. of gross floor area, minimum FAR of .35~~
- ~~indoor motion pictures, limited to one (1) screen~~
- ~~offices, general, medical, professional, minimum FAR of .35~~
- ~~personal, professional, and technical services up to 8,000 sq. ft. of gross area, minimum FAR of .35~~
- parking lot or structure as principal use (9.479)
- ~~research and development services, minimum FAR of .35~~
- ~~restaurants without drive-through windows, up to 8,000 sq. ft. of gross floor area, minimum FAR of .35~~
- ~~retail establishments, up to 8,000 sq. ft. of gross area, minimum FAR of .35~~
- schools (9.35)
- ~~squares, plazas, or other formal open spaces not exceeding 1/2 acre in area~~
- ~~stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage expressly prohibited¹.~~
- ~~taverns and bars, up to 6,000 sq. ft. of gross floor area, minimum FAR of .35~~

- transit shelters, (9.39)
- ~~workshops and studios for the design and manufacture of art, craft and artisan products, up to 8,000 sq. ft. of gross area, minimum FAR of .35~~

(c) Permitted Accessory Uses.

- accessory dwelling, (9.1)
- day care home (small), (9.11)
- home occupation, (9.19)
- parking lot as an accessory to any permitted principal use, on the same lot or on an abutting lot, according to the standards of Article 6
- solar facility, minor non-residential (9.54)
- solar energy facility, minor residential (9.54)
- accessory uses permitted in all districts, (8.11)

Section 7. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 3, Section 3.2.14(a)** of the Huntersville Zoning Ordinance is hereby amended as follows:

(a) Permitted Uses.

Uses Permitted by Right.

- financial services
- commercial uses, other than those specifically permitted in this section
- conference centers, up to 15,000 sq. ft. of gross floor area
- greenways
- government offices
- inns
- light manufacturing, (9.48)
- multi-family homes in mixed use buildings
- offices
- professional, personal, and technical services
- squares, plazas, or other urban open spaces not exceeding 1/2 acre in area
- single family attached homes in mixed use buildings
- transit stations
- workshops and studios for the design and manufacture of art, craft, and artisan products, up to 8,000 sq. ft. of gross area

Uses Permitted with Conditions.

- ~~conference centers, up to 15,000 sq. ft. of gross floor area~~
- day care center, (9.11)
- essential services 1 and 2, (9.14)
- hospitals, (9.48)
- light manufacturing, (9.48)
- ~~multi-family homes in mixed use buildings~~
- ~~squares, plazas, or other urban open spaces not exceeding 1/2 acre in area~~
- ~~single family attached homes in mixed use buildings~~
- ~~workshops and studios for the design and manufacture of art, craft, and artisan products, up to 8,000 sq. ft. of gross area~~
- parking lot or parking structure as a principal use, (9.498)

Uses Permitted with a Special Use Permit.

- ~~light manufacturing, on not more than 5 acres, (9.48)~~
- ~~accessory warehousing exceeding 25% of the finished floor area of the principal use, (9.48)~~
- ~~hospitals, (9.48)~~
- wind energy facility, minor, accessory, (9.53)

(b) Permitted Building and Lot Types.

- civic building
- highway commercial (for conference facilities only), minimum FAR of .35
- mixed use¹
- shopfront
- workplace, minimum FAR of .35

(c) Permitted Accessory Uses.

- home occupations, (9.19)
- parking lot as an accessory to any permitted principal use, on the same lot or on an abutting lot according to the standards of Article 6
- retail, restaurant, bars and taverns, personal services, clinics and similar workplace support uses up to 20 percent of first floor area of any building, or of a multi-building project taken as a whole
- solar energy facility free-standing, minor, non-residential, (9.54)
- solar energy facility,, minor non-residential (9.54)
- solar energy facility, minor residential (9.54)
- ~~warehousing not to exceed 25% of the finished floor area of the principal use,~~
(9.48)
- accessory uses permitted in all districts, (8.11)

Section 8. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.9** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.9 Commercial Communication Tower

A Commercial Communication tower is subject to ~~shall meet~~ the following standards conditions:

1. To encourage future shared use of commercial communication towers, the tower owner must demonstrate that the tower will support a specified number of antennas and must file a letter of intent with the town to lease the space to other users in good faith. In turn, the owner may charge users a proportionate share of capital, financing, and operating costs, plus the cost of insulating equipment so that the transmissions do not interfere with one another. To encourage collocation of commercial communication antenna and facilities and to reduce the need for new commercial communication towers, co-location of such antennae and facilities shall be permitted on any commercial communication tower or tower for radio communication for business or governmental purposes of which the tower was in existence on July 20, 2009, regardless of when it was constructed, the underlying zoning district, or any condition of approval for the existing tower other than a condition which was imposed or accepted by the Board of Commissioners. To the extent practical as determined by the Planning Director, all standards of this Section 9.9 shall be applicable.
2. No new commercial communication tower may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the proposed tower is to serve.
3. The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings. Example: brown/green/gray.
4. Fencing must be provided to secure the communication equipment on site. If chain link or similar fencing material is used on the site, an opaque screen shall be provided on the exterior side of the fence.
5. All obsolete or unused facilities must be removed within 12 months of cessation of operations at the site.
6. Equipment, mobile or immobile, not used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made.
7. Towers shall not be artificially lighted except to ensure human safety as required by the Federal Aviation Administration (FAA) regulations. To the extent possible, tower lighting shall be located and directed to avoid flashing or shining into the interior spaces of dwellings.

8. An opaque screen expected to reach minimum 8' height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing, and auxiliary uses such as parking. In addition, existing onsite trees and other vegetation shall be preserved to the extent possible.
9. No more than one communication tower shall be constructed on a single tract of land.
10. If such a structure is located on a lot adjacent to a lot or lots located in a residential or mixed-use district, it must be located at least 200 feet from all property lines adjacent to the residential or mixed use district(s).
11. To be permitted as an incidental accessory use in any zoning district, a tower shall be camouflaged on, with, or in an existing or proposed conforming structure (e.g., inside religious institution steeple, on utility transmission line tower). A detailed site plan and structural elevations must be submitted to the Planning Department for approval. The affirmative decision of the Planning Department shall be based upon a determination that the proposed tower is so camouflaged as to be unnoticeable to the public; or if placed upon a utility transmission line tower, that the additional equipment would not further diminish the quality of the view from surrounding properties and public streets, nor would additional light(s) intrude upon the private interior or exterior living areas of existing dwellings.
12. Commercial Communication Towers, in addition to satisfying meeting the conditions criteria set forth in 9.9.1-9.9.10, and 9.9.12-9.9.13 may be allowed in the Rural (R) district only if they satisfy meet the following additional conditions criteria and are subject to a Special Use Permit, according to the procedures of Section 11.4.10:
 - a. The height of the commercial communication tower may not exceed 199 feet above ground level;
 - b. The commercial communication tower may only be placed on properties in eight and a half (8.5) acres on a tract that existed as an eight and a half (8.5) acre tract or greater on February 6, 2012;
 - c. The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;
 - d. The commercial communication tower may only be placed on a property where it will not require artificial illumination;
 - e. The commercial communication tower must provide technically-suitable space for at least four (4) users;

- f. The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any occupied structure.
 - g. All commercial communication towers in the Rural district shall be constructed using a monopole design.
 - h. A new communication tower cannot be placed within a one-mile radius of an existing tower.
13. Collocation on town-owned utility poles shall be in accordance with N.C.G.S. 160D-937.
14. Nothing in Article 9.9 shall be interpreted to conflict with the provisions of N.C.G.S. 160D-938.

Section 9. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.11** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.11 Day Care Centers And Small Day Care Homes

1. Child Day Care Center.

- a. A center must meet a permitted building and lot type for the district in which it is to be located.
- b. Play space must be provided in accordance with the regulations of North Carolina Department of Human Resources.
- c. Outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.
- d. Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way.
- e. In the Transit-Oriented Development-Residential (TOD-R) District, day care centers have a limit of 8,000 sq. ft of gross floor area.

2. Adult Day Care Center.

- a. A center must meet a permitted building and lot type for the district in which it is to be located.

- b. There is no limit on the hours of operation of an Adult Day Care Center, but it shall not serve any client on a continuous 24-hour basis.
- c. Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way.
- d. In the Transit-Oriented Development-Residential (TOD-R) District, day care centers have a limit of 8,000 sq. ft of gross floor area.

3. Child Day care home, small, accessory.

- a. The day care operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to 6 children not related to the operator.
- b. A Child Day Care home shall meet the following standards:
 - i. Child Day Care Homes must be licensed by the North Carolina Department of Health and Human Services.
 - ii. Play space must be provided in accordance with the regulations of the North Carolina Department of Health and Human Services.
 - iii. Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; Outdoor play space is prohibited in any established building setback from a street.
 - iv. Chain link and similar fencing materials shall be planted on exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation or be obscured by a comparable screening treatment.
 - v. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
 - vi. There are no specific limitations on the hours of operation of a Day Care Home, but no outdoor play shall be permitted after sundown.

4. Adult Day Care Home, small.

- 1. An Adult Day Care home must be located within the residential dwelling unit occupied by the operator of the service. Care is limited to no more than 6 adults who do not reside in the dwelling.
- 2. An Adult Day Care home shall meet the following standards:

- i. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- ii. There is no limit on the hours of operation of an Adult Day Care Center, but it shall not serve any client on a continuous 24-hour basis.

Section 10. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.35** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.35 Schools

1. Schools shall conform principal buildings to the standards of Civic Buildings and lots, Article 4. Accessory and incidental buildings may be placed within a street fronting yard if they conform to a building and lot type permitted in the zoning district. Buildings which do not so conform shall be placed within established rear and side yards which do not abut a street.
2. Permanent parking lots associated with schools shall meet the standards of Article 6, Off-Street Parking. However, areas designated for temporary bus parking that also serves as a recreational area shall not be subject to interior parking lot landscaping requirements.
3. Notwithstanding 1. and 2., above, where the safe transport of students requires functional separation of parking and circulation areas (i.e. school bus, auto drop-off, etc.), the location of parking and circulation according to building and lot type may be modified, so long as streets abutting parking and circulation areas are, to the extent practicable, detailed as plazas. Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way. Stacking on Town streets may be allowed if all of the following are met:
 - a. Site is zoned TND-R, TND-U or TND-Overlay;
 - b. Maximum enrollment shall not exceed 360 kindergarten to 8th grade students;
 - c. Two-way traffic maintained on Town streets along the entire pick up/drop-off zone;
 - d. Pick-up/drop-off zone shall have a minimum width of eight (8) feet exclusive of the two-way traffic lanes.

- e. The school shall provide at a minimum a 11.5-foot-wide hardscaped area behind the back of curb. Street trees with grates are allowable, but bushes/shrubs in the area are not allowed.
 - f. A traffic impact analysis, including a mandatory circulation plan and queuing analysis must be approved by the Town of Huntersville Engineering & Public Works Department prior to plan approval. Should conditions in the field vary from the analysis, the Town Engineer has the ability to modify the circulation plan.
4. Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas need not conform with Article 6 if they are maintained in a natural condition (for example, as a grassed field).
 5. Service areas shall be separated by an opaque screen from the view from any street and from abutting properties as described in Section 7.6 of this ordinance.
 6. Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height (expected height at maturity minimum 6 feet), 6 feet on center at installation.
 7. Outdoor lighting associated with active outdoor recreational facilities shall be designed as follows:
 - a. Facilities shall use fully shielded lighting fixtures except where luminaries are:
 1. Provided with internal and/or external glare control louvers and installed so as to minimize up-light and offsite light trespass; and
 2. Installed and maintained with aiming angles that permit no greater than five percent (5%) of the light emitted by each fixture to project above the horizontal.
 - b. Lighting plans shall limit light trespass to the maximum extent possible. A maximum of .5 foot-candles at any location on any non-residential property, and .1 foot-candles at any location on any residential property, as measurable from any orientation of the measuring device, shall be met.
 - c. Lighting shall be extinguished after 11:00 p.m. Illumination of the sports facility shall be permitted after this time only to conclude a scheduled event that was unable to conclude before this time due to unusual circumstances.
 8. Elementary and Junior High Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).
 9. Senior high schools shall be on a lot which abuts a minor or major thoroughfare; primary vehicular access shall be provided from the thoroughfare.
 10. When permitting temporary classroom units, the entire site shall be reviewed for compliance with applicable codes (i.e. sidewalks, landscaping, turn-lanes).

Applicants are encouraged to bring the site into compliance where deficiencies are identified relative to the intensification of use proposed.

11. Sufficient stacking lanes for drop-off and pick-up shall be provided onsite so that traffic circulation is not impeded on any public right-of-way.
12. In a Corporate Business zoning district, schools shall only be allowed ~~with the issuance of a special use permit~~ subject to the following additional conditions:
 - a. Schools shall only be allowed on existing lots and in existing buildings, ~~as of December 20, 2010, no~~ The school buildings shall be no greater than 50,000 sq. ft. in size. Additions to buildings intended for school use will be limited to 10% of the existing floor area of the building.
 - b. Schools shall be limited to a temporary use in this district. The length of time allowed for the school to operate ~~shall will be determined by the Town Board during the special use permit process~~; not to exceed three (3) years from the occupancy of the temporary building. If the school does not occupy the building within one (1) year of ~~the special use permit~~ approval, the approval permit will become null and void. A school may reapply for another Special Use Permit allowing an additional two (2) years in the CB district ~~with the approval of the Town Board~~. At no time shall an individual school be located in the CB district at the same location for more than a total of five (5) years.
 - c. The maximum number of students shall be 300.
 - d. In a CB zoning district, the school site shall be designed, located, and accessed such that primary passenger vehicles routes avoid those that will be primarily ~~heavily~~ used by truck/industrial traffic.

Section 11. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.45** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.45 Hotels And Motels

Hotels are permitted in the Highway Commercial and Corporate Business Districts subject to the requirements below; Motels are permitted in the Corporate Business District only, subject to the requirements below:

1. Any structure in which a hotel or motel is the principal or accessory use shall be separated by a distance of at least 250 feet from any residential or mixed-use zoning district, measured from the closest point of the lot occupied by the hotel or motel to the closest point of lots in residential and mixed-use zoning districts.
- 2.

- a. Any structure in which a hotel or motel is the principle or accessory use shall be separated by a distance no less than three (3) times the height of the proposed structure closest to the common lot line of the adjoining residential and mixed-use zone, but in no case less than 100 feet.
 - b. That all other site design requirements stated in this code are met. Any structure in which a hotel or motel is the principal or accessory use is spaced less than established in 1 above shall require a conditional rezoning special use permit subject to the following standards as well as all other standards applicable for special use permits: and
 - c. ~~That~~ Vvehicular access to the use shall ~~will~~ be provided only by way of a major or minor thoroughfare, or a Retail/Mixed-Use Local or Collector Street within a commercial or mixed-use project.
3. Any structure in which a hotel or motel is the principal or accessory use may exceed the permitted building height of the zoning district, not to exceed six (6) stories, subject to a conditional rezoning Special Use Permit, and the requirements of Article 9.45.2.

Section 12. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.47** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.47 Special Uses In TOD-R Districts

Uses permitted in the TOD-R district that exceed maximum first floor area or exceed the maximum limit for non-residential uses are permitted subject to the following conditions: approval of a Special Use Permit. The procedures of Section 11.4.10 shall be followed. ~~The Town Board shall issue a Special Use Permit for the subject use(s) and building(s) if, but not unless, the evidence presented at the Special Use Permit hearing establishes each of the following:~~

1. ~~That a~~Along any street providing primary pedestrian access to a transit station the following requirements apply:
 1. Street level building edge(s) shall line at least one-half of the approved block length; and
 2. The distance between pedestrian entries at street level shall not exceed 100 feet; and
 3. Aat least thirty percent (30%) of the area of the street level façade shall be composed of windows and doors; and
 4. The standards set forth in this subsection shall be~~above~~ are met by either the principal building, or by the construction of liner buildings along street level.

2. ~~That t~~The proposed buildings and uses shall not substantially increase the demand for automobile access to the transit-oriented development by 50% or more.
3. ~~That t~~The proposed buildings and uses shall meet the Intent statement for the district.

Section 13. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 9, Section 9.48 of the Huntersville Zoning Ordinance is hereby amended as follows:

9.48 Special Uses In TOD-E Districts

Uses permitted in the TOD-E district that have the potential for reducing employment intensity are permitted subject to the following conditions: approval of a Special Use Permit. The procedures of Section 11.4.10 shall be followed.

~~The Town Board shall issue a Special Use Permit for the subject use(s) and building(s) if, but not unless, the evidence presented at the Special Use Permit hearing establishes each of the following:~~

1. ~~That t~~The use is in the area between the ¼ mile and the ½ mile walk from the station site.
2. ~~That, f~~For buildings along any street in the district that provides primary pedestrian access to a transit station:
 - a. Street level building edge(s) shall line at least one-half of the approved block length; and
 - b. The distance between pedestrian entries at street level shall not exceed 100 feet; and
 - c. ~~a~~At least thirty percent (30%) of the area of the street level façade shall be composed of windows and doors; and
 - d. The standards above set forth in this subsection shall be ~~are~~ met by either the principal building, or by the construction of liner buildings along street level.
3. ~~That t~~The proposed buildings and uses shall not substantially increase the demand for truck and automobile access through the pedestrian-oriented street system of the TOD by 50% or more.
4. ~~That t~~The proposed buildings and uses meet the Intent statement for the district.
5. Light manufacturing limited to a maximum of 5 acres.
6. Accessory warehousing limited to 25% of the finished floor area of the principal use

Section 14. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.52** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.52 Country Inn Development In The Transitional Residential Zoning District (Reserved)

~~Country Inn Developments are permitted in the Transitional Residential Zoning District subject to a Special Use Permit, according to the procedures of Section 11.4.10. The Town Board shall issue a Special Use Permit for the subject facility in the TR District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:~~

- ~~1. That the use will be located on a lot of at least twenty (20) acres in size; and~~
- ~~2. That the total dwelling rooms do not exceed twenty-four (24) rooms for rental and/or owner/staff occupancy in a maximum of ten buildings (two (2) main inns and up to eight (8) residential cottages); and~~
- ~~3. That the owner/management shall reside onsite.~~
- ~~4. That the use may utilize the Residential Local Street design standards of Article 5; and~~
- ~~5. That the use may utilize a paved private drive. If a private drive is used it shall be constructed on a recorded easement not less than twenty (20) feet in width serving the Country Inn exclusively with the following restrictions:~~
 - ~~a. The recorded easement shall have at least thirty (30) feet of frontage on a public street.~~
 - ~~b. The private paved road must be at least eighteen (18) feet wide and constructed in accordance with the Land Development Standards Manual as it applies to Huntersville. Private drive right of way or easement shall be of such width to accommodate drainage/water quality treatment.~~
 - ~~c. The plat and associated deeds shall clearly state such drive shall remain private and will not be taken over by a public entity in the future; and~~
- ~~6. That special events shall be allowed for the public such as wedding receptions, rehearsal dinners, afternoon tea, parties, business meetings/retreats and similar events with the following restrictions:~~
 - ~~a That hours of operation, including set-up and break-down, for special events will be no earlier than 9:00 a.m. and no later than 11:00 p.m.~~
 - ~~b That special events must comply with the noise restrictions identified in the Town of Huntersville Noise Ordinance; and~~
- ~~7. That there will be a separation of no less than:~~
 - ~~a Parking areas shall be located one hundred (100) feet from arterial roads and thoroughfares, thirty-five (35) feet from internal public streets and driveways and one hundred (100) feet from adjacent properties except when their uses are adjacent to dedicated open spaces, either by deed or easement, in which case, the setback shall be thirty-five (35) feet. Parking areas will be visually buffered from the arterial roads and thoroughfares.~~

- b ~~Special event areas shall be located one hundred (100) feet from any property boundary located in a residential district or developed for residential or mixed-use purposes except when their uses are adjacent to the dedicated open spaces either by deed or easement, in which case the setback shall be thirty-five (35) feet. A thirty (30) foot vegetated buffer along the property line is required for special event areas except when the adjacent property uses are dedicated open spaces either by deed or easement. Additional buffers may be required as part of d) of this section.~~
 - c ~~All newly constructed accessory structures such as: Barns, Green Houses, Vertical Gardens, Agriculture or Farm related structures shall be located one hundred (100) feet from any property located in a residential district or developed for residential or mixed-use purposes except when their uses are adjacent to the dedicated open spaces either by deed or easement in which case the setback shall be thirty-five (35) feet.~~
 - d ~~As each property is unique, the Town Board may modify the buffers for a Country Inn Development based on particular topographical issues and uses of the property. For instance, additional buffer requirements may be appropriate for special event areas and/or reduction in buffer area may be appropriate for farming or pasture areas within the Country Inn project.~~
8. ~~The Country Inn Development shall be rural in nature and considered a single lot development and shall not be required to provide connector roads to or through other residential developments.~~

Section 15. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.59** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.59 Banquet Facility

~~Banquet Facilities are permitted in the Rural Zoning District subject to a Special Use Permit, according to the procedures of Article 11.4.10. the following conditions: Events shall be allowed at Banquet Facilities for the public such as weddings, catered receptions, rehearsal dinners, business meetings/retreats.~~

~~The Town Board shall issue a Special Use Permit for the subject facility in the Rural District if, but not unless, the evidence presented at the Special Use Permit Hearing establishes:~~

1. ~~That the hours of operation, including set-up and break-down, for events will be no earlier than 8:00 am and no later than midnight (12:00 am).~~

2. That events must comply with the noise restrictions identified in the Town of Huntersville Noise Ordinance ~~whether or not~~ whether the property is located within the Town's corporate limits or the Extraterritorial Zoning Jurisdiction (ETJ).; and
3. ~~That events must comply with the noise restrictions identified in the Town of Huntersville Noise Ordinance or Mecklenburg County Noise Ordinance, whichever is applicable; and~~
3. That the use will be located on a lot of at least 10 acres in size with a minimum of 30 feet of frontage on a public road either by fee simple ownership or by exclusive easement.
4. One residence (single-family detached house) may be located on the site.
5. New buildings shall maintain a rural character and be compatible with surrounding area.
6. Events may take place inside a building, tent, or outdoors. Catered activities and receptions may take place in tents or buildings.
7. Entrance drives, internal drives, parking and service areas may be gravel, crushed stone, or other suitable material approved by the Planning Director. These areas shall be well maintained and kept free of potholes, weeds, etc. The initial 50 feet of driveway from the public roadway connection shall be paved with concrete or asphalt.
8. That there will be a separation of no less than:
 - a. Parking areas shall be located one hundred (100) feet from arterial roads and thoroughfares, and fifty (50) feet from adjacent properties. Parking areas will be visually buffered from arterial roads, thoroughfares and adjoining properties.
 - b. Event areas shall be visually buffered and located sixty (60) feet from any property boundary located in a residential district or developed for residential or mixed-use purposes.
 - c. Any newly constructed accessory structure such as barns, gazebos and Agriculture or Farm related structures shall be located at a minimum of sixty (60) feet from any property boundary located in a residential district or developed for residential or mixed-use purposes.
 - d. As each property is unique, the Town Board may modify the buffers for a Banquet Facility based on particular topographical issues and uses of the property. For instance, additional buffer requirements may be appropriate

for event areas and/or reduction in buffer area may be appropriate for farming or pasture areas. ~~Such modifications requires a rezoning.~~

- ~~9. The facility Applicant shall have adequate off-street parking to accommodate the maximum number of attendees.~~
- ~~10. The method for providing potable water and a system of sanitary sewage collection and disposal for the maximum number of attendees shall be provided.~~
- ~~11. Mobile food/beverage vehicles are allowed on the premises with the following conditions:~~
 - e. The mobile food/beverage vehicles must cater to the guests of invitation only events, for a time period limited to the event, and are not open to public use.
 - f. The mobile food/beverage vehicles must park in a designated spot, indicated on the special use plan. This area will be screened from public view and adjacent land owners, by an opaque screen.
 - g. No more than three mobile food/beverage vehicles allowed at one time.
 - h. No trucks will be stored overnight on the property.

Events shall be allowed at Banquet Facilities for the public such as weddings, catered receptions, rehearsal dinners, business meetings/retreats.

Section 16. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.60** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.60 Off-Site Catering Services In An Agritourism Catering Facility (Reserved)

~~Off-site catering services in an Agritourism Catering Facility are permitted in the Rural Zoning District subject to a Special Use Permit according to the procedures of Article 11.4.10. Any Agritourism Catering Facility classified as a bona fide farm pursuant to G.S. 160D-903 shall be exempt from the Special Use Permit requirement.~~

- ~~1. The facility shall be located on a lot of at least twenty (20) acres in size.~~
- ~~2. A principal residence shall be located on site.~~
- ~~3. There shall be no more than twelve (12) employees' present and performing activities for the off-site catering services at any time, excluding on-site resident family members of the facility owner employed in the catering operation. As used in this section 9.60, employees who are present and performing activities for both on-~~

~~site and off-site catering services shall count towards the twelve (12) employee limit. The permit shall specify the number of employees permitted at the facility at the same time.~~

- ~~4. That facility shall have adequate off-street parking for the permitted number of employees and for the vehicles used for off-site catering services. In order to accommodate employees, off-site catering vehicles and visiting clients of the catering operation, there shall be a minimum of 1.5 spaces for each permitted employee and off-site catering service vehicle. As used in this section 9.60, vehicles used for both on-site and off-site catering services are included and subject to these regulations. Such parking shall have a visually opaque buffer at least thirty-five feet in width along the adjacent boundary or a structural screen such as a fence that is augmented with vegetation.~~
- ~~5. There shall be no outside storage or evidence of personal property, materials and equipment used for off-site catering services visible from adjoining residences or streets. As used in this section 9.60, personal property, materials and equipment used for both on-site and off-site catering services are included and subject to these regulations.~~
- ~~6. If any portion of the facility utilized by the off-site catering services is located within the on-site principal residence, such portion shall occupy no more than twenty-five percent (25%) of the total finished square footage of such principal residence. The total square footage of the facility used for off-site catering services may not exceed fifty (50%) of the total finished share footage of such principal residence. As used in this section 9.60, portions of the facility used for both on-site and off-site catering services are included and subject to these regulations.~~
- ~~7. The lot containing the facility shall have (i) a minimum of thirty feet (30') of frontage on a public road, (ii) a thirty foot (30') wide exclusive easement to a public road or (iii) a shared exclusive easement, of a minimum of 40' in width, for use by no more than three adjoining properties at the time of the issuance of a permit.~~
- ~~8. Entrance drives, internal drives, parking and service areas may be gravel, crushed stone, or other suitable material approved by the Planning Director. These areas shall be well-maintained and kept free of potholes, weeds, etc. The initial fifty feet (50') of driveway from the public roadway connection shall be paved with concrete or asphalt.~~

Section 17. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.61** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.61 Par 3 And/Or Golf Driving Range (Reserved)

~~Par 3 and golf driving ranges are permitted in the Rural Zoning District subject to a Special Use Permit according to the procedures of Article 11.4.10.~~

~~The Town Board shall issue a Special Use Permit for the use in the Rural District if, but not unless the evidence presented at the Special Use Permit hearing establishes:~~

- ~~1. Par 3 courses shall not be lit. Outdoor lighting associated with driving ranges in the Rural district shall be designed as follows:~~
 - ~~a. Facility lighting may include floodlights but must be shielded and shall be oriented and directed in such a way as to not produce glare at any off-site location.~~
 - ~~b. Maximum light fixture height shall be 40 feet.~~
 - ~~c. Maximum lighting level is 15 foot-candles measured at grade.~~
 - ~~d. If free standing lighting is proposed, photometric lighting plans shall be submitted at special use permit application. A maximum of .5 foot-candles at any location on any non-residential property and .1 foot-candles at any location on any residential property, as measurable from any orientation of the measuring device shall be met.~~
 - ~~e. Lighting shall be extinguished at 11 pm.~~
 - ~~f. Upon review of the photometric plan, the Town Board may modify the above lighting standards provided the spirit of the ordinance, reducing glare and off-site light trespass is maintained.~~
- ~~2. Vehicular access to the use will be provided only by way of a Boulevard or Major Thoroughfare.~~
- ~~3. A par 3 golf course or driving range must be located on a property at least 20 acres in size.~~
- ~~4. No multi-level buildings or tee boxes are permitted.~~
- ~~5. Hours of operation shall be no earlier than 6 am and no later than 11 p.m.~~
- ~~6. Existing vegetation within 50 feet of the fronting thoroughfare and residential property lines shall remain undisturbed. If no vegetation exists along the property line, an opaque buffer shall be planted per Article 7.6 If there is no existing~~

~~vegetation along the street, the required second row of street trees will be planted using large maturing evergreen trees to maintain an intermittent screen.~~

- ~~a. As each property is unique, the Town Board may modify the buffers for a golf facility based on particular topographical issues and uses of the property. For instance, additional buffer requirements may be appropriate for active commercial areas, while a reduction in buffer area may be appropriate for open natural areas.~~
- ~~7. At no time shall golf balls be permitted to cross on to adjacent property or onto the public street. If course or tee orientation makes it possible for balls to leave the site through standard operating use, netting, buffers, screening or other barrier shall be installed to prohibit off site encroachment. If netting is required, it shall be located behind a vegetative buffer, screening if from any property line.~~
- ~~8. Only accessory retail and commercial uses meant to serve patrons of the golf facility are permitted, such as snack shops and pro shops. No principle use restaurants or retail establishments meant to serve the general public are permitted.~~

Section 18. Be it ordained by the Board of Commissioners of the Town of Huntersville that **Article 9, Section 9.62** of the Huntersville Zoning Ordinance is hereby amended as follows:

9.62 Dormitory

Dormitories for a bona fide farm are permitted in the Rural and Transitional Zoning Districts subject to the following conditions: ~~a Special Use Permit according the procedures of Article 11.4.10. The Town Board shall issue a special use permit for the use in a Rural or Transitional Residential Zoning District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:~~

- ~~1. The use will not endanger health and safety, does not substantially reduce the value of nearby property.~~
1. The use shall does not conflict with long range plans.

TA 24-12: SUP (Special Use Permit) Changes

2. The use ~~shall does not violate constitute a~~ any applicable nuisance to adjoining properties with respect to noise, dust, fumes, odor, and traffic. ordinances or other applicable laws.
3. Buildings, parking, and trash facilities shall be setback at least 100' from any adjoining property line and 500' from any public street right-of-way.
4. The use shall be visual screened year-round from all adjoining properties and public streets.
5. The driveway and parking area shall, at minimum, be ground asphalt
6. The dormitory is located on a bona fide farm ~~of at least 100 contiguous acres~~ and is on the land being farmed by the occupants on a full-time basis.
7. The dormitory cannot exceed two (2) stories in height; 15,000 sq. ft. per building; and five buildings total.
8. Building and housing will be constructed and maintained to meet H-2A program requirements or similar federal programs applicable at the time.

Dormitories located in the Town's ETJ and used for a bona fide farm purpose as defined in N.C.G.S. § 160D-903 are exempt from the conditions set forth above.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: July 11, 2024 (Recommended
Unanimous Approval)

PUBLIC HEARING DATE: Hearing Held August 6, 2024

PLANNING BOARD MEETING: Scheduled for August 27, 2024

TOWN BOARD DECISION: Scheduled for September 17, 2024



Text Amendment Application

Date of Application _____ 5/24/24 _____

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

_____ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): _____ See attached ordinance _____ Article(s): _____ Several articles
affected _____ Section(s): _____

See attached ordinance

Current Ordinance

Proposed Text

**Reason for Proposed
Change**

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name _____ Brad Priest _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: _____

Signature _____ Date 5/24/24

Title _____ Assistant Planning Director _____

Email _____ bpriest@huntersville.org _____

Address of Applicant _____ 101 Huntersville Concord Road Huntersville, NC 28070 _____

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____

Staff Initials: _____



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Pattie McGinnis, Finance Director

Subject: Resolution Authorizing Issuance of GO Bonds Series 2024

EXPLAIN REQUEST:

Attached is the resolution to adopt the sale of the \$29,000,000 General Obligation Bonds as per Bond Counsel.

ACTION RECOMMENDED:

Adopt Resolution

FINANCIAL IMPLICATIONS:

None

ATTACHMENTS:

1. Bond Resolution - Huntersville GO Bonds 2024 (new money competitive)

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF HUNTERSVILLE,
NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION PUBLIC
IMPROVEMENT BONDS, SERIES 2024**

WHEREAS, the Bond Orders hereinafter-described have been adopted, and it is desirable to make provision for the issuance of the bonds authorized by said Bond Orders;

WHEREAS, the Town of Huntersville, North Carolina (the “*Town*”) desires to issue its General Obligation Public Improvement Bonds, Series 2024 in an aggregate principal amount not to exceed \$29,000,000 (the “*Bonds*”);

WHEREAS, the Town requests that the Local Government Commission sell the Bonds through a competitive sale;

WHEREAS, copies of the forms of the following documents relating to the transactions described above have been filed with the Town and have been made available to the Board of Commissioners of the Town (the “*Board of Commissioners*”):

1. the Notice of Sale for the competitive sale of the Bonds (the “*Notice of Sale*”); and
2. a Preliminary Official Statement with respect to the Bonds (the “*Preliminary Official Statement*”);

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners as follows:

Section 1. For purposes of this Resolution, the following words will have the meanings ascribed to them below:

“*Bond Orders*” means the Transportation Bond Order and the Parks and Recreation Bond Order, collectively authorizing the Bonds.

“*Bonds*” means the Town’s General Obligation Public Improvement Bonds, Series 2024 authorized under the Bond Orders.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein will be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto.

“*Federal Securities*” means, to the extent permitted by laws of the State for the defeasance of local government bonds, (a) direct obligations of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged; (b) obligations, the timely payment of the principal of and interest on which is fully guaranteed as full faith and credit obligations of the United States of America (including any securities described in (a) or (b) issued or held in the name of the Trustee in book-entry form on the books of the Department of Treasury of the United States of America), which obligations, in either case, are held in the name of a trustee and are not subject to redemption or purchase prior to maturity at the option of anyone other than the holder; (c) any bonds or other obligations of the State of North Carolina or of any agency, instrumentality or local governmental unit of the State of North Carolina which are (i) not callable prior to maturity or (ii) as to which irrevocable instructions have been given to the trustee or escrow agent with respect to such bonds or other obligations by the obligor to give

due notice of redemption and to call such bonds for redemption on the date or dates specified, and which are rated by Moody's, if the bonds are rated by Moody's, and S&P, if the bonds are rated by S&P, within the highest rating category and which are secured as to principal, redemption premium, if any, and interest by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) or (b) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; (d) direct evidences of ownership of proportionate interests in future interest and principal payments on specified obligations described in (a) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in (a), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated; or (e) any other obligations permitted under State law for the defeasance of local government bonds.

"Moody's" means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, *"Moody's"* will be deemed to refer to any other nationally recognized rating agency other than S&P designated by the Town.

"Parks and Recreation Bond Order" means the Bond Order relating to the Parks and Recreation Projects adopted by the Board of Commissioners on July 17, 2023 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held on November 7, 2023.

"Parks and Recreation Projects" means acquiring and constructing parks and recreation facilities and athletic fields, including, without limitation, the expansion of the Town recreation center, renovating and expansion of existing parks and recreation facilities and athletic fields, including improvements to the Huntersville Family Fitness & Aquatics facility, developing parkland, greenways and trails, and acquiring land, rights of-way and easements for park and recreation uses, if necessary.

"Pricing Certificate" means the certificate of the Town Manager or Town Finance Director delivered in connection with the issuance of the Bonds which establishes the final principal amount, the final maturity amounts, the payment dates, the provisions for redemption and other terms of the Bonds, consistent with the pricing of the Bonds and this Resolution.

"Projects" means the Transportation Projects and the Parks and Recreation Projects.

"S&P" means S&P Global Ratings, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, *"S&P"* will be deemed to refer to any other nationally recognized rating agency other than Moody's designated by the Town.

"Transportation Projects" means constructing, reconstructing, enlarging, extending and improving streets and non-motorized paths, including streets and roads constituting a part of the State highway system or otherwise the responsibility of the State and including, without limitation, the cost of related studies, streetscape and pedestrian improvements, relocation of utilities, plans and design, acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading or improving streets, roads and intersections, and acquiring, constructing, reconstructing or improving sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic controls, signals and markers, and acquiring land, rights-of way and easements required for any of the foregoing.

“Transportation Bond Order” means the Bond Order relating to the Transportation Projects adopted by the Board of Commissioners on July 17, 2023 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held on November 7, 2023.

Section 2. The Town shall issue not to exceed \$29,000,000 in total aggregate principal amount of its Bonds. The final principal amount and the amounts allocable to each Bond Order will be set forth in the Pricing Certificate.

Section 3. The Bonds shall be dated their date of issuance and pay interest semiannually on June 1 and December 1, beginning June 1, 2025, unless the Finance Director establishes different dates in the Pricing Certificate. The Bonds are being issued to provide funds (1) to finance the capital costs of the Projects pursuant to and in accordance with the Bond Orders and (2) to pay the costs of issuing the Bonds.

Section 4. The Board of Commissioners has ascertained and hereby determines that the average period of usefulness of the capital projects being financed by the proceeds of the Bonds is not less than the term of the Bonds computed from the date of issuance of the Bonds.

Section 5. The Bonds are payable in annual installments on December 1 in each year beginning December 1, 2025 through and including December 1, 2044, on an approximately level principal basis, unless otherwise established in the Pricing Certificate. The Finance Director, in consultation with the Local Government Commission, is hereby authorized and directed to determine the amount of the annual installments related to the Bonds. The Bonds may be sold as term bonds and, if so, will be subject to mandatory sinking fund redemption as set forth in the Pricing Certificate.

Section 6. The Bonds are to be numbered from “R-1” consecutively and upward. All Bonds shall bear interest from their date at a rate or rates which shall be hereafter determined on the sale thereof computed on the basis of a 360-day year, constituting twelve 30-day months.

Section 7. The Bonds are to be registered as to principal and interest, and the Finance Director of the Town is directed to maintain the registration records with respect thereto. The Town will make payments of principal and interest on the Bonds to the person shown as the owner of the Bonds on its registration books as of the record date, which is at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date (the “*Record Date*”). The Bonds shall bear the original or facsimile signatures of the Mayor and Town Clerk, or their respective designees.

Section 8. The Bonds will initially be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company (“*DTC*”), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the Bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the Bonds will be payable to DTC or its nominee as registered owner of the Bonds in immediately available funds. The principal of and interest on the Bonds will be payable to owners of Bonds shown on the records of DTC at the close of business on the Record Date. The Town will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director of the Town determines that the continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Town will discontinue the book-entry system with DTC in accordance with the rules and procedures of

DTC. If the Town fails to identify another qualified securities depository to replace DTC, the Town will authenticate and deliver replacement bonds in accordance with the rules and procedures of DTC.

Section 9. The Bonds maturing on or before December 1, 2034 will not be subject to redemption before maturity. The Bonds maturing on and after December 1, 2035 will be subject to redemption before maturity, at the option of the Town, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after December 1, 2034, at the redemption price of the principal amount of Bonds to be so redeemed, plus accrued interest to the redemption date. Different redemption provisions may be established by the Pricing Certificate.

If less than all of the Bonds are called for redemption, the Town shall select the maturity or maturities of the Bonds to be redeemed in such manner as the Town in its discretion may determine and DTC and its participants shall determine which of the Bonds within a maturity are to be redeemed in accordance with its rules and procedures (or if the Bonds are not in book-entry, the Town will determine by lot); provided, however, that the portion of any Bond to be redeemed shall be in principal amount of \$5,000 or integral multiples thereof and that, in selecting Bonds for redemption, each Bond will be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. Whenever the Town elects to redeem Bonds, notice of such redemption of Bonds, stating the redemption date, redemption price and any conditions to the redemption and identifying the Bonds or portions thereof to be redeemed and further stating that on such redemption date there shall become due and payable on each Bond or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the Bonds, by prepaid certified or registered United States mail (or by such other means as permitted by DTC's rules and procedures), at the address provided to the Town by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. Notwithstanding the foregoing, if DTC or its nominee is the registered owner of the Bonds, notice shall be given in such form and with such information as required by DTC's rules and procedures. If DTC, or its nominee, is not the registered owner of the Bonds, the Town will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the Town. The Town will also mail or transmit in electronic format a copy of the notice of redemption within the time set forth above (1) to the Local Government Commission of North Carolina (the "*Local Government Commission*") and (2) to the Municipal Rulemaking Securities Board through the EMMA system; provided, however, any failure or defect related to these notices will not affect the validity of the redemption.

If at the time of mailing of the notice of redemption there is not on deposit money sufficient to redeem the Bonds called for redemption, such notice may state that it is conditional on the deposit of money for the redemption on the date of redemption as set forth in the notice. Any notice, once given, may be withdrawn by notice delivered in the same manner as the notice of redemption was given.

If moneys sufficient to pay the redemption price of the Bonds or portions thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, are held by the Town, or on the Town's behalf, in trust for the registered owners of the Bonds or portions thereof to be redeemed, interest on the Bonds or portions thereof called for redemption shall cease to accrue, and to the extent permitted by law, such Bonds or portions thereof shall cease to be entitled to any benefits or security hereunder or to be deemed outstanding, and the registered owners of such Bonds or portions thereof shall have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest thereon to such redemption date. If a portion of a Bond shall have been selected for redemption, a new Bond or Bonds of the same maturity, of any authorized denomination or denominations and bearing interest at the same rate shall be delivered for the unredeemed portion of the principal amount of such Bond.

Section 10. The Bonds and the provisions for the registration of the Bonds and for the approval of the Bonds by the Secretary of the Local Government Commission are to be in substantially the form set forth in Exhibit A hereto.

Section 11. The Town's Finance Director, or her designee, is hereby authorized to execute a non-arbitrage certificate with respect to the Bonds in order to comply with Section 148 of the Code and the applicable income tax regulations thereunder.

Section 12. The Town's Finance Director, or her designee, is hereby directed to create and establish a special fund or account (the "*Project Fund*") and may establish separate accounts or subaccounts within the Project Fund to track the expenditures related to each of the Projects. The Town's Finance Director, or his designee, shall deposit the proceeds from the sale of the Bonds in the Project Fund to be used to pay the capital costs of the Projects and costs of issuance of the Bonds in accordance with the Bond Orders. The Town's Finance Director, or his designee, shall invest and reinvest any moneys held in the Project Fund as permitted by the laws of the State of North Carolina and the income, to the extent permitted by the Code, is to be retained in the Project Fund and applied with the proceeds of the Bonds as permitted by the Bond Orders, as directed by the Town's Finance Director, or her designee. The Town's Finance Director, or his designee, shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom so as to satisfy the requirements of the laws of the State of North Carolina and to assure that the Town maintains its covenants with respect to the exclusion of the interest on the Bonds from gross income for purposes of federal income taxation.

Section 13. Actions taken by officials of the Town to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

Section 14. The Local Government Commission is hereby requested to sell the Bonds through a competitive sale to the bidder whose bid results in the lowest interest cost to the Town, determined on the basis of the true interest cost method or such other basis as may be determined by the Local Government Commission.

Section 15. The Mayor, the Town Manager, Deputy Town Manager, the Town's Finance Director and the Town Clerk, or their respective designees, individually and collectively, are hereby authorized and directed to cause the Bonds to be prepared and, when they shall have been duly sold by the Local Government Commission, to execute the Bonds and to turn the Bonds over to the registrar and transfer agent of the Town, if any, for delivery through the facilities of DTC to the purchaser or purchasers to whom they may be sold by the Local Government Commission.

Section 16. The form and content of the Notice of Sale and the Preliminary Official Statement together with the final Official Statement related to the Bonds are in all respects authorized, approved and confirmed, and the Mayor, the Town Manager and the Town's Finance Director, or their respective designees, individually and collectively, are authorized, empowered and directed to execute and deliver the Official Statement in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as shall to the Mayor, the Town Manager and the Town's Finance Director seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the approval of the Board of Commissioners of any and all changes, modifications, additions or deletions therein from the form and content of the Preliminary Official Statement presented to the Board of Commissioners.

Section 17. The Mayor, the Town Manager, the Deputy Town Manager, the Town Attorney, the Town's Finance Director, and the Town Clerk and their respective designees, individually and collectively, are authorized and directed to execute and deliver for and on behalf of the Town any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

Section 18. The Town agrees, in accordance with Rule 15c2-12 (the "*Rule*") promulgated by the Securities and Exchange Commission (the "*SEC*") and for the benefit of the beneficial owners of the Bonds, to provide as follows:

(1) by not later than seven months after the end of each fiscal year to the Municipal Securities Rulemaking Board (the "*MSRB*") in an electronic format as prescribed by the MSRB, the audited financial statements of the Town for the preceding fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the Town for such fiscal year to be replaced subsequently by audited financial statements of the Town to be delivered within 15 days after such audited financial statements become available for distribution;

(2) by not later than seven months after the end of each fiscal year to the MSRB, the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under the captions "**THE TOWN--DEBT INFORMATION**" and "**--TAX INFORMATION**" (excluding information on overlapping or underlying units) in the Official Statement referred to in Section 16, to the extent such items are not included in the audited financial statements referred to in clause (1) above;

(3) in a timely manner not in excess of 10 business days after the occurrence of the event, to the MSRB, notice of any of the following events with respect to the Bonds:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on the debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (e) substitution of any credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds or other material events affecting the tax status of the Bonds;
- (g) modification of the rights of the beneficial owners of the Bonds, if material;
- (h) call of any of the Bonds, other than mandatory sinking fund redemptions,

if any, if material, and tender offers;

(i) defeasance of any of the Bonds;

(j) release, substitution or sale of any property securing repayment of the Bonds, if material;

(k) rating changes;

(l) bankruptcy, insolvency, receivership or similar event of the Town;

(m) the consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to such actions, other than pursuant to its terms, if material;

(n) the appointment of a successor or additional trustee, or the change in the name of a trustee, if material;

(o) incurrence of a financial obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Town, any of which affect security holders, if material; and

(p) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Town, any of which reflect financial difficulties; and

(4) in a timely manner to the MSRB, notice of the failure by the Town to provide the required annual financial information described in (1) and (2) above on or before the date specified.

For purposes of this Section, “*financial obligation*” means (a) a debt obligation, (b) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (c) a guarantee of either clause (a) or (b) above. The term “*financial obligation*” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

The Town agrees that its undertaking under this Section is intended to be for the benefit of the beneficial owners of the Bonds and is enforceable by any of the beneficial owners of the Bonds, including an action for specific performance of the Town’s obligations under this Section, but a failure to comply will not be an event of default and will not result in acceleration of the payment of the Bonds. An action must be instituted, had and maintained in the manner provided in this Section for the benefit of all of the beneficial owners of the Bonds.

All documents provided to the MSRB as described in this Section shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB. The Town may discharge its undertaking described above by providing such information in a manner the SEC subsequently authorizes in lieu of the manner described above.

The Town may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Town, but:

(1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the Town;

(2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of the Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances;

(3) any such modification does not materially impair the interest of the beneficial owners, as determined by parties unaffiliated with the Town (such as bond counsel) or by the approving vote of the registered owners of a majority in principal amount of the Bonds at the time of the amendment.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal of and interest on the Bonds.

Section 19. Those portions of this Resolution other than Paragraph 18 may be amended or supplemented, from time to time, without the consent of the owners of the Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not materially adversely affect the interests of the owners of the Bonds and would not cause the interest on the Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This Resolution may be amended or supplemented with the consent of the owners of a majority in aggregate principal amount of the outstanding Bonds, exclusive of Bonds, if any, owned by the Town, but a modification or amendment (1) may not, without the express consent of any affected owner of Bonds, reduce the principal amount of any Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification and (2) as to an amendment to Paragraph 18, must be limited as described therein.

Any act done pursuant to a modification or amendment consented to by the owners of the Bonds is binding on all owners of the Bonds and will not be deemed an infringement of any of the provisions of this Resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after consent has been given, no owner of a Bond has any right or interest to object to the action, to question its propriety or to enjoin or restrain the Town from taking any action pursuant to a modification or amendment.

If the Town proposes an amendment or supplemental resolution to this Resolution requiring the consent of the owners of the Bonds, the registrar for the Bonds shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed amendment to be sent to each owner of the Bonds then outstanding by first-class mail, postage prepaid, to the address of such owner as it appears on the registration books (or by such other means acceptable to the registered owner); but the failure to receive such notice by mailing by any owner, or any defect in the mailing thereof, will not affect the validity of any

proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal office of the registrar for the Bonds for inspection by all owners of the Bonds. If, within 60 days or such longer period as shall be prescribed by the Town following the giving of such notice, the owners of a majority in aggregate principal amount of Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice.

Section 20. Nothing in this Resolution precludes (a) the payment of the Bonds from the proceeds of refunding bonds or (b) the payment of the Bonds from any legally available funds.

If the Town causes to be paid, or has made provisions to pay, on maturity or on redemption before maturity, to the owners of any of the Bonds the principal of such Bonds (including interest to become due thereon), through setting aside trust funds or setting apart in a reserve fund or special trust account created pursuant to this Resolution or otherwise, or through the irrevocable segregation for that purpose in some sinking fund or other fund or trust account with an escrow agent or otherwise, moneys sufficient therefor, including, but not limited to, interest earned or to be earned on Federal Securities, then, to the extent permitted by law, such Bonds shall be considered to have been discharged and satisfied, and the principal of such Bonds (including premium, if any, and interest thereon) shall no longer be deemed to be outstanding and unpaid; provided, however, that nothing in this Resolution requires the deposit of more than such Federal Securities as may be sufficient, taking into account both the principal amount of such Federal Securities and the interest to become due thereon, to implement any such defeasance.

If such a defeasance occurs and after the Town receives an opinion of a nationally recognized accounting or verification firm that the segregated moneys or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the Town shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction. The Town shall make provisions for the mailing of a notice to the owners of the Bonds that such moneys are so available for such payment.

Section 21. If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions hereof or of the Bonds authorized hereunder.

Section 22. All resolutions or parts thereof of the Board of Commissioners in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 23. This Bond Resolution is effective on its adoption.

PASSED, ADOPTED AND APPROVED this 17th day of September, 2024.

STATE OF NORTH CAROLINA)
) ss:
TOWN OF HUNTERSVILLE)

I, Janet Pierson, Town Clerk of the Town of Huntersville, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution titled “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS, SERIES 2024**” duly adopted by the Board of Commissioners of the Town of Huntersville, North Carolina, at a meeting held on the 17th day of September, 2024 and that such proceedings are to be recorded in the minute books of said Board of Commissioners.

WITNESS my hand and the seal of the Town of Huntersville, North Carolina, this the ____ day of _____, 2024.

Janet Pierson, Town Clerk
Town of Huntersville, North Carolina

(SEAL)

APPENDIX A

FORM OF BOND

No. R-

\$

**UNITED STATES OF AMERICA
STATE OF NORTH CAROLINA
TOWN OF HUNTERSVILLE**

INTEREST

RATE

MATURITY DATE

DECEMBER 1, 20__

DATED DATE

OCTOBER 30, 2024

CUSIP

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM:

DOLLARS

GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND, SERIES 2024

THE TOWN OF HUNTERSVILLE, NORTH CAROLINA (the “Town”) acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, upon surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this Bond until it shall mature at the Interest Rate per annum specified above, payable on December 1, 2025 and semiannually thereafter on June 1 and December 1 of each year, on the basis of a 360-day year, constituting twelve 30-day months. Principal of and interest on this Bond are payable in immediately available funds to The Depository Trust Company (“DTC”) or its nominee as registered owner of the Bonds and is payable to the owner of this Bond shown on the records of DTC at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date. The Town is not responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Bond Act, the Bond Orders adopted by the Town Board of Commissioners on July 17, 2023 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held on November 7, 2023 and a Bond Resolution adopted by the Town Board of Commissioners on September 17, 2024 (the “Bond Resolution”). The Bonds are being issued under the Bond Resolution to provide funds (1) to finance the capital costs of transportation projects and parks and recreation projects, as further described in the Bond Resolution, and (2) to pay the costs of issuing the Bonds. The Bonds will initially be issued by means of a book-entry system as described in the Bond Resolution. Capitalized terms used herein and not otherwise defined have the meaning set forth in the Bond Resolution.

The Bonds maturing on or before December 1, 2034 will not be subject to redemption prior to maturity. The Bonds maturing on and after December 1, 2035 will be subject to redemption prior to maturity, at the option of the Town, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after December 1, 2034, at the redemption price of the principal amount of Bonds to be so redeemed, plus accrued interest to the redemption date.

If less than all of the Bonds are called for redemption, the Town shall select the maturity or maturities of the Bonds to be redeemed in such manner as the Town in its discretion may determine and DTC and its participants shall determine which of the Bonds within a maturity are to be redeemed in

accordance with its rules and procedures (or if the Bonds are not in book-entry, the Town will determine by lot); provided, however, that the portion of any Bond to be redeemed shall be in principal amount of \$5,000 or integral multiples thereof and that, in selecting Bonds for redemption, each Bond will be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. Whenever the Town elects to redeem Bonds, notice of such redemption of Bonds, stating the redemption date, redemption price and any conditions to the redemption and identifying the Bonds or portions thereof to be redeemed and further stating that on such redemption date there shall become due and payable on each Bond or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the Bonds, by prepaid certified or registered United States mail (or by such other means as permitted by DTC's rules and procedures), at the address provided to the Town by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. Notwithstanding the foregoing, if DTC or its nominee is the registered owner of the Bonds, notice shall be given in such form and with such information as required by DTC's rules and procedures. If DTC, or its nominee, is not the registered owner of the Bonds, the Town will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the Town.

If moneys sufficient to pay the redemption price of the Bonds or portions thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, are held by the Town, or on the Town's behalf, in trust for the registered owners of the Bonds or portions thereof to be redeemed, interest on the Bonds or portions thereof called for redemption shall cease to accrue, and to the extent permitted by law, such Bonds or portions thereof shall cease to be entitled to any benefits or security hereunder or to be deemed outstanding, and the registered owners of such Bonds or portions thereof shall have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest thereon to such redemption date.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the Town, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the Town are hereby pledged to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond shall not be valid or become obligatory for any purpose until the certification hereon shall have been signed by an authorized representative of the Local Government Commission.

IN WITNESS WHEREOF, the Town has caused this Bond to bear the original or facsimile of the signatures of the Mayor of the Town and the Town Clerk and to be dated their date of issuance.

(SEAL)

Town Clerk

Mayor

Date of Execution: _____, 2024

The issue hereof has been approved under the
provisions of The Local Government Bond Act.

Secretary of the Local Government Commission

FORM OF ASSIGNMENT

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite Name and Address,
including Zip Code, and Federal Taxpayer Identification or
Social Security Number of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

Attorney to register the transfer of the within Bond on the books kept for registration thereof,
with full power of substitution in the premises.

Dated: _____

Signature guaranteed by: _____

NOTICE: Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program ("Stamp") or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration, enlargement or any change whatever.

TRANSFER FEE MAY BE REQUIRED



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: Pattie McGinnis, Finance Director

Subject: Capital Project Ordinance - 2024 General Obligation Bonds

EXPLAIN REQUEST:

Approve Capital Project Ordinance for the 2024 Transportation General Obligation Bond of \$25,000,000 and the 2024 Parks and Recreation General Obligation Bond of \$4,000,000 Issue.

ACTION RECOMMENDED:

Approve Capital Project Ordinance for the 2024 Transportation and Parks and Recreation Bond Issue.

FINANCIAL IMPLICATIONS:

See attached Capital Project Ordinance.

ATTACHMENTS:

1. GO Bonds 2024 Capital Prj Ord



**TRANSPORTATION AND
PARKS AND RECREATION PROJECTS
CAPITAL PROJECT ORDINANCE**

WHEREAS, it has been determined that G.S. 159-45 and related chapters allow local governments to finance capital projects through the use of General Obligation Bonds; and

WHEREAS, the citizens of Huntersville voted on November 7, 2023 and approved the Transportation Bonds voting 77.64% in favor and Parks and Recreation Bonds voting 74.72% in favor; and

WHEREAS, the Board is considering a Resolution to adopt the sale of \$25,000,000 Transportation General Obligation Bonds and \$4,000,000 of Parks and Recreation General Obligation Bonds on September 17, 2024, and

WHEREAS, the bonds anticipated sale on October 8, 2024, and

WHEREAS, in accordance with North Carolina General Statute 159-13.2, the Town is authorized to establish a balanced project ordinance for projects involving the construction or acquisition of capital assets; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville that a Project Ordinance is hereby adopted as follows:

SECTION 1. FERRELLTOWN PARKWAY The Ferrelltown Parkway project authorized to extend the thoroughfare from Keyes Meadow Way to Ramah Church Road. The project will add turn lanes on Ramah Church Road at Ferrelltown Parkway. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 1.1. The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 3,957,550</u>

SECTION 1.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 3,957,550</u>
TOTAL REVENUE	<u>\$ 3,957,550</u>

SECTION 2. SEAGLE STREET- MCCORD – HIGHWAY 73. The Seagle Street – McCord – Highway 73 project is authorized to construct roadway on a new location for Church Street from McCord Road to Highway 73. This project will add alternative parallel route to NC 115. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 2.1. The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 750,000</u>

SECTION 2.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 750,000</u>
TOTAL REVENUE	<u>\$ 750,000</u>

SECTION 3. COMMERCE CENTRE DRIVE. The Commerce Centre Drive project is authorized to realign and connect Commerce Centre Drive to Holbrook Street and includes modification to future traffic signal. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 3.1. The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 500,000</u>

SECTION 3.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 500,000</u>
TOTAL REVENUE	<u>\$ 500,000</u>

SECTION 4. MCCOY ROAD AT HAMBRIGHT ROAD. The McCoy Road at Hambright Road project is authorized to construct turn lanes and traffic signal at the intersection of McCoy Road at Hambright Road. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 4.1. The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 1,850,000</u>

SECTION 4.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 1,850,000</u>
TOTAL REVENUE	<u>\$ 1,850,000</u>

SECTION 5. STUMPTOWN ROAD. The Stumptown Road project is authorized to construct a roadway on the new alignment from NC 115/Stumptown Road intersection to Aberfield Road/Stumptown road intersection. The roadway would be integral in providing east/west connectivity and remove traffic from NC 115 congested area. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 5.1. The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 1,598,000</u>

SECTION 5.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 1,598,000</u>
TOTAL REVENUE	<u>\$ 1,598,000</u>

SECTION 6. BEATTIES FORD ROAD AND MCCOY ROAD. The Beatties Ford Road and McCoy Road project is authorized to realign and widen to facilitate traffic flow and safety on Beatties Ford Road and McCoy Road. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 6.1. The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 1,479,340</u>

SECTION 6.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 1,479,340</u>
TOTAL REVENUE	<u>\$ 1,479,340</u>

SECTION 7. MCCOY ROAD AT MCHWAIN ROAD. The McCoy Road at McIlwaine Road project is authorized to construct turn lanes and traffic signal at the intersection of McCoy Road at McIlwaine Road. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 7.1. The following amounts are appropriated for the project:

	Original Budget
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	\$ 1,200,000

SECTION 7.2. The following revenues are anticipated to be available to complete this project:

	Original Budget
2024 Transportation Bonds Issued	\$ 1,200,000
TOTAL REVENUE	\$ 1,200,000

SECTION 8. NC115 – MCCORD ROAD TO NC73. NC115 – McCord Road to NC 73 project is authorized to widen NC115 to a four lane divided section along with the addition of bike and pedestrian accommodations. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 8.1 The following amounts are appropriated for the project:

Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	\$ 2,562,000

SECTION 8.2. The following revenues are anticipated to be available to complete this project:

	Original Budget
2024 Transportation Bonds Issued	\$ 2,562,000
TOTAL REVENUE	\$ 2,562,000

SECTION 9. GILEAD ROAD WEST The Gilead Road West project authorized is to deliver the roadway improvements on section of Gilead Road between McCoy Road and Wynfield Creek Parkway. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 9.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 2,167,235</u>

SECTION 9.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 2,167,235</u>
TOTAL REVENUE	<u>\$ 2,167,235</u>

SECTION 10. US 21/GILEAD ROAD – MAST ARMS The US21/Gilead Road mast arms project authorized is to build mast arms and related betterments as provided in the municipal agreement at the intersection of US21 and Gilead Road. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 10.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 850,000</u>

SECTION 10.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 850,000</u>
TOTAL REVENUE	<u>\$ 850,000</u>

SECTION 11. HIGHWAY 73 GREENWAY BRIDGE The Highway 73 Greenway Bridge project authorized a bridge over NC73 near Lindholm Drive and will provide a grade separated crossing of the greenway trail from a major thoroughfare. This will be constructed by NCDOT during the widening project. Funds are for the Town’s match percentage from the CRTPO funding request.

SECTION 11.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 2,063,520</u>

SECTION 11.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 2,063,520</u>
TOTAL REVENUE	<u>\$ 2,063,520</u>

SECTION 12. RANSON ROAD SIDEWALK The Ranson Road sidewalk project authorized is to add sidewalk along Ranson Road between Hunton Land and Torrence Creek Elementary School. This will include construction/replacement of sidewalk ramps and curb and gutter.

SECTION 12.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 2,900,000</u>

SECTION 12.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 2,900,000</u>
TOTAL REVENUE	<u>\$ 2,900,000</u>

SECTION 13. HUNTERSVILLE CONCORD ROAD AT WARFIELD ROAD The Huntersville Concord Road at Warfield Road project authorized is to realign and widen to a three section and add bike/pedestrian accommodations along both sides of the road between Walters Street and Second Street. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 13.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 622,355</u>

SECTION 13.2. The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 622,355</u>
TOTAL REVENUE	<u>\$ 622,355</u>

SECTION 14. BEATTIES FORD AND NECK ROAD The Beatties Ford and Neck Road project authorized is to realign Neck Road and construct turn lanes at the intersection of Beatties Ford Road and Neck Road. This will include planning, permitting, engineering design, right of way acquisition, construction engineering inspection.

SECTION 14.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 1,000,000</u>

SECTION 14.2 The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 1,000,000</u>
TOTAL REVENUE	<u>\$ 1,000,000</u>

SECTION 15. WALTERS – HUNTERSVILLE – CONCORD ROAD – 3RD STREET. The Walters-Huntersville-Concord Road – 3rd Street project is authorized make improvements to Walters Street including improvements such as widen, improve drainage, curb and gutter, sidewalk and resurfacing improvements. This will include planning, permitting, engineering design, right of way acquisition and construction.

SECTION 15.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Construction, Utility relocation, purchase of right of way, design and engineering and landscaping and bond issuance cost	
TOTAL PROJECT COSTS	<u>\$ 1,500,000</u>

SECTION 15.2 The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Transportation Bonds Issued	<u>\$ 1,500,000</u>
TOTAL REVENUE	<u>\$ 1,500,000</u>

SECTION 16. WAYMER PARK SPLASH. The Waymer Park Splash pad is authorized to construct a splash pad at Waymer Park. This will include planning, permitting, engineering design, and construction.

SECTION 16.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Waymer Park Splash pad	
TOTAL PROJECT COSTS	<u>\$ 1,200,000</u>

...

SECTION 16.2 The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Parks and Recreation Bonds Issued	<u>\$ 1,200,000</u>
TOTAL REVENUE	<u>\$ 1,200,000</u> ,

SECTION 17. RAMAH CHURCH PARK. The Ramah Church Park is authorized to develop a park master plan for this site through public input and construct the park. This will include planning, permitting, engineering design, and construction.

SECTION 17.1 The following amounts are appropriated for the project:

	<u>Original Budget</u>
Ramah Church Park	
TOTAL PROJECT COSTS	<u>\$ 2,800,000</u>

SECTION 17.2 The following revenues are anticipated to be available to complete this project:

	<u>Original Budget</u>
2024 Parks and Recreation Bonds Issued	<u>\$ 2,800,000</u>
TOTAL REVENUE	<u>\$ 2,800,000</u>

SECTION 18. The officers of the unit are hereby directed to proceed with the capital project within the terms of the bond resolution, grant documents, and the budget contained herein. Such authorization includes but is not limited to bidding, awarding and entering into contracts as necessary to carry out the capital project as allowed by law and after review by the Town Attorney for compliance with lawful procedures.

SECTION 19. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for direction in carrying out these projects.

Duly Adopted this 17th day of September 2024.

ATTEST:

Janet Pierson, Town Clerk

Christy Clark, Mayor

APPROVED AS TO FORM:

Emily Sloop, Town Attorney



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: David Lucore, Electric System Manager

Subject: AT&T Overhead to Underground Conversion on Gilead Road

EXPLAIN REQUEST:

AT&T has provided an estimate of \$450,000 to convert their overhead lines to underground on Gilead Road as part of the Gilead Road conversion of utilities.

ACTION RECOMMENDED:

Approve Agreement and Budget Amendment and authorize manager to execute documents

FINANCIAL IMPLICATIONS:

\$450,000

ATTACHMENTS:

1. AT&T Conversion Cost for Gilead Road 2024-09-11



**LETTER OF AGREEMENT FOR CUSTOM WORK and ESTIMATE OF ACTUAL COST
GOVERNMENT AGREEMENT**

CR #:

Project Number:

Customer Name:

Billing Address:

Contact Name:

Contact email Address:

Contact Phone Number:

Site Location:

AT&T has received a request from you to perform the following work:

<i>Estimated Actual Cost Quote</i>	
Expenses	Amount
ENGINEERING LABOR	
MATERIAL COST	
CONSTRUCTION LABOR	
CONTRACTOR COST	
MISC. COST	
Estimated Contract Price	
<i>Less Credits/Payments</i>	
Estimated Balance Due	

Special construction charges apply. Engineering and Construction will not begin until the attached contract is signed by you or your authorized agent. This signed agreement must be received at the AT&T address shown below before AT&T will proceed with any work.

This quote is only valid for 60 days from the date of this letter.

Payment in full is required within 30 days after the date of the AT&T invoice for the charges associated with the work performed.

CUSTOM WORK AGREEMENT

CR #:

Project Number:

This Custom Work Agreement ("Agreement") is entered into by and between

(hereafter "AT&T") and
(Customer).

AT&T and Customer hereby agree to following terms:

1. **Tariffs/Guidebooks.** This Agreement is subject to and controlled by the provisions of AT&T's tariffs/guidebooks as applicable and all such revisions to said documents as may be made from time to time.
2. **Special Construction.** This Agreement is for the special construction as further described on page 1, attached hereto and incorporated herein by this reference ("Special Construction"). Payment in full based on actual costs is required within thirty days after AT&T issues an invoice to the Customer for the Special Construction Charges.
3. **Price Quote.** The price is guaranteed for 60 days from . If the charges are not accepted within 60 days the request will be canceled and a new request will need to be placed. The second estimate may be higher than the price that was originally quoted.
4. **Early Termination.** Should Customer terminate or cancel this Agreement prior to the completion of construction, Customer shall remain liable for the Special Construction Charges. Customer acknowledges and agrees AT&T shall incur substantial up-front costs in connection with its performance under this Agreement and that damages in the event of such early termination or cancellation are not readily ascertainable and that in such event of early termination payment of the Special Construction Charges is reasonable. Customer further acknowledges and agrees that it hereby waives any right to contest such payment of the Special Construction Charges for any reason, including, but not limited to reasonableness of the charges, quality of the work, or timeliness of the work.
5. **Limitation of Liability.** AT&T's maximum liability arising in, out of or in any way connected to this Agreement shall be as set forth in the tariffs and/or guidebooks, as applicable, and in no event shall exceed Special Construction Charges paid by Customer to AT&T.

6. **Changes in Scope of Work.** The parties recognize that this is an 'Actual Cost' contract. "Actual Cost" means that Customer will be provided with a final bill after the completion of all work and agrees to pay that final bill. The final bill will be calculated based on AT&T's billing practices and work performed, which Customer agrees to accept. Customer understands and agrees that the final bill for the Actual Cost may exceed the preliminary cost estimate that has been provided for this work. Consequently, AT&T is not required to provide the Customer with prior notice that the Actual Cost has exceeded the preliminary cost estimate prior to providing the final bill. Further, if the Customer initiates changes in the scope of the work after AT&T has provided the preliminary cost estimate or after executing this contract, the above cost estimate and this contract are null and void. A new cost estimate must be provided based on the new scope of work and a new contract entered. Additionally, if the contractor bid exceeds the estimated contractor costs the applicant will be responsible for additional costs and a change order will be issued for customer approval. Work will not commence until signed change order and additional payment has been received.

7. **Changes Due to Field Conditions.** In the event there exists any conditions in the field that differ from those that existed at the time AT&T provided the quote or from the time the Customer executes the contract, AT&T shall bill and Customer shall pay any additional cost. Field conditions that may alter the cost associated with this work include, but are not limited to, conditions that exist below the surface of the ground and could not have been anticipated at the time of the price quote, above ground barriers, Acts of God affecting the progress or sequencing of the work, labor disputes and other conditions or circumstances that AT&T could not have reasonably anticipated at the time the cost estimate was provided. Differing field conditions are but one example of why the Actual Cost may exceed the preliminary cost estimate. Further, items that Customer has agreed to provide in connection with the Special Construction work, such as (but not limited to) providing conduit and/or handholes, must be suitable to AT&T's purposes. If these items are not suitable or AT&T is forced to acquire or provide them, it will result in increased costs that Customer agrees to pay.

8. **Customer Obligations.** Customer agrees to provide appropriate easements and/or rights of way, as determined by AT&T, to AT&T for its lines and any facilities necessary for the Special Construction work. Further, Customer agrees to provide and place suitable conduit and handholes for AT&T's use in the Special Construction work. Should Customer not provide these items, Customer understands and agrees that it will result in increased costs above the estimate provided, which Customer agrees to pay.

9. **Time to Complete.** Any representation by AT&T, its contractors, or employees that the project will be complete by a certain date or certain time period is strictly an estimate and not binding. All estimated completion dates are subject to changing conditions in the field, changes in the scope of the work, relocation of existing utilities not within AT&T's control, Acts of God, weather delays, labor disputes, contractor disputes, pandemics and other conditions or circumstances could not reasonably anticipate at the time of the estimate.

10. **Indemnification and Hold Harmless.** Both parties, its agents, servants, and employees hereby agree to indemnify and hold harmless each other, and its employees, agents and contractors, from and against any and all claims, costs, expenses, judgments or actions for damage to property or injury or death to persons, and/or arising from or relating to the work that is the subject of this agreement, to the extent any such claims are caused by the negligent acts or omissions of each party, its agents, servants, or employees.

11. **Miscellaneous.**

- A. Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.
- B. Effect of Waiver. No consent or waiver, express or implied shall be deemed a consent to or waiver of any other breach of the same or any other covenant, condition, or duty.
- C. Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
- D. Interpretation. The parties agree that this Agreement shall not be interpreted in favor or against either any party. The parties further agree that they entered into this Agreement after conferring with legal counsel, or after having a reasonable opportunity to confer with legal counsel.
- E. Applicable Law. This Agreement shall be governed and interpreted in accordance with the laws of the state that the work site location is located without regard to that state conflict of law principles.
- F. Attorneys' fees. If either party materially breaches this Agreement and should the non-breaching party seek to enforce it rights through legal action, the prevailing party shall recover from the other party all costs and expenses incurred, including, but not limited to, reasonable attorneys' fees.
- G. Authority. The signatories to this Agreement represent and warrant that they are duly authorized to execute this Agreement.
- H. No Precedent. Except for the matters resolved and released herein, this Agreement is of no value and shall not be considered precedent for resolving any dispute that may arise in the future.
- I. Severability. Any provision of this Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Agreement and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.
- J. Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

12. **Final Agreement.** THIS AGREEMENT REPRESENTS THE ENTIRE AND FINAL EXPRESSION OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF. EXCEPT AS PROVIDED HEREIN, THIS AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES; THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative on the dates set below. This quote is only valid for 60 days from the date of this letter.

CR #:

Project Number:

Date Quote Expires:

AT&T Design Engineer:

ACCEPTED FOR CUSTOMER:

AT&T CWO Manager Contact Information

Authorized Signature

CWO Manager

Title:

Phone Number:

Company:

Email Address:

Printed Name:

Date:

Date:

Please send original signed agreement to AT&T CWO 220 Wisconsin Avenue, FLR 2, Waukesha, WI 53186



Request for Board Action

September 17, 2024

To: The Honorable Mayor and Board of Commissioners

From: David Lucore, Electric System Manager

Subject: Approve Electric Budget Amendment

EXPLAIN REQUEST:

Approve budget amendment appropriating Electric Fund balance (353890.9999) in the amount of \$450,000 for the contract to remove AT&T aerial cables from Gilead Road (358100.0511.35087).

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

Reduce Electric Fund Balance by \$450,000

ATTACHMENTS:

None