Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, July 25, 2023.

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

Chairman J. Sny welcomed L. Hallman to the Planning Board.

Approval of Minutes
Item 2A. Consider approval of the June 25, 2023, Regular Meeting Minutes
Motion: C. Boyd made a Motion to Approve the amended June 25, 2023, minutes. S. Hensley seconded the motion.

Vote: The motion passed unanimously (5-0-1) with G. Baber abstaining.

Public Comments
No public comments.

Board Disclosures
S. Hensley disclosed that he has previously worked with the parent company for Foundry and it will not affect his decision.

J. Sny disclosed that he has a conflict and requested to be recused.

Motion: F. Gammon made a motion to Recuse J. Sny. C. Boyd seconded the motion.
Vote: The motion passed unanimously (5-0).

Action Items
Item 4A: Consider recommendation on Petition #R23-01, Foundry - Everette Keith Road, a request by Foundry Commercial, LLC to rezone +/- 59.66-acres generally located east of Everette Keith Road and south of Hambright Road from existing Transitional Residential to Corporate Business - Conditional District for approximately 750,000 sq. ft. of light industrial space.

D. Peete, 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 identified the modification requests that have been met and are no longer needed.

F. Gammon asked staff to indicate which modifications need to be included in the motion for this item and future items.

C. Boyd asked staff if the cul-de-sac at the southeast corner should be built as a roundabout now to prepare for the future connection. Staff responded that future plans have the sides of the cul-de-sac going away and becoming a thoroughfare.

L. Hallman commented on discrepancies between the long-range plan and small-area plan for this area and asked which would have precedence. Staff responded that the most recent is the long-range plan, however; the small-area plan is much more detailed so it could be rational to rely on either plan.

L. Hallman asked if the large adjacent tract landowner was contacted or provided any comments. Staff responded that the public hearing notices were sent to all properties within 250 feet, including this parcel, and staff has not received any communication from that landowner.

G. Baber asked staff if they are still recommending the expansion of the Employment Center. Staff confirmed that there is a rationale for expanding the Employment Center as it is adjacent to that on the west and would be expanded to the major power line to the east.

G. Baber asked staff if there was still a concern about the scale and mass of the building size. Staff responded that the comment was provided to the applicant that the scale and mass of each of the buildings could be reduced with the three-building development versus two. The applicant is requesting the option to do three buildings, not the requirement to do three buildings.

G. Baber asked staff if the building would need to be reduced to meet the buffer requirement on the north. Staff responded that an adjustment to the placement of the street could likely resolve the buffer issue to the northwest without requiring the building to be reduced. The northeast corner buffer issue may be able to be resolved with some additional requirements within the berm.

S. Hensley asked if there were any comments at the Community Meeting from the residences to the south in opposition to the project. Staff responded that they did not recall any opposition from those landowners, there may have been one person who was concerned about the traffic.

C. Boyd asked staff if the properties not being utilized to the south would remain zoned TR. Staff confirmed that with the existing housing stock not involved in this project to the south, it is recommended that the parcels adjacent to the housing and not being rezoned remain zoned TR with some minimal plantings to provide some visual aesthetic and possible protection from the thoroughfare.

S. Hensley asked staff if the full thoroughfare was installed now what landscape or buffer requirements there would be. Staff responded there would be a double row of street trees.

The applicant, Bill Simerville of Foundry Commercial 1513 Meyers Park Drive Charlotte presented.

S. Hensley asked the applicant if they had any comments regarding staff's recommendation to road alignments that could create more room and a full buffer. Greg Welsh, Oak Engineering 4929 Monroe Road Charlotte commented that the access into the parking lot at building one on the northwest corner cannot T-in directly into the parking lot from the road because that would violate the 100-foot stem length rule that DOT requires. That entrance will be used by cars and trucks so pulling it back assists with not allowing a queue to occur on Everette Keith Road. Given this, adjusting the road to a more southern placement would be problematic.

G. Welsh also commented that the reduced buffer on the northeast side is adjacent to the Duke powerlines to the east which make an abrupt 45 degree turn not far north of the northern property line. There is a good size piece of land there but the topography of that land would make it very difficult to develop. He then asked, if a compatible use was developed on the adjacent parcel to the north, making these buffers unnecessary, could they be thrown out either administratively or through rezoning, to allow the road to be pushed up to the property line? The current layout is based on the current zoning of the adjacent parcel but there is a good chance that may adjust soon. Staff confirmed that the applicant could return to the Board to request a rezoning adjustment to remove that buffer in the future.

S. Hensley asked what staff's position is regarding the proposed connectivity street stubs to the north. Staff stated that a note confirming willingness to link would suffice versus having them specified on the plan so when a future development is proposed to the north, if it is compatible, then connections can be identified as needed. As they are currently shown, if the Board approves them on the site plan as displayed, then the developer to the north must align with them as shown.

F. Gammon asked the applicant to confirm they are requesting a modification to the northern buffer to be mitigated with a berm. The applicant confirmed that is correct and stated the berm will be landscaped and they are willing to install fencing if that is requested.

C. Boyd asked the applicant why these buildings are proposed at 300,000 + square feet versus the Bryton Commerce Center Phase II buildings that are half this size, and how would the architecture address mass and scale of the proposed building size. The applicant responded that the end caps would have similar architecture to Bryton Commerce Center Phase II buildings. The size is a reaction to the market requests seeking this size of building in our area. Currently, those clients are being lost to neighboring municipalities as there is no option currently available more than 150,000 square feet. Building 2 could potentially be chopped in half based on client needs.

S. Hensley followed up on the question initially asked by Commissioner Munger at the Public Hearing regarding the applicant's willingness to complete the road connection of Everette Keith Road. The applicant commented that they have a relationship with the owners of the parcels that would be impacted and have already negotiated sewer easements. The applicant stated that they are not opposed to working as an agent for whoever wants to pursue that and the collective accomplishment of that connection but the timeline for that does not coincide with this development so the request is for any approval of this development not be tied to the completion of that connection.

Motion: S. Hensley made a motion to recommend Approval of R23-01 Foundry Everette Keith Road conditional rezoning but finds the request inconsistent with the Huntersville 2040 Community Plan policy LU-1, encourage a development pattern that follows a future land use map, as stated in part 4 of the Staff Report. Therefore, the Planning Board recommends the Huntersville 2040 Community Land Use Map be amended as follows, the property proposed for conditional rezoning be included as an extension of the Employment Center located along its western border. This amendment is supported by the Eastfield Small Area Plan and that the proposed Foundry Everette Keith Development is in "Planning Zone 1A" of the plan. This small area plan states this area of Everette Keith Road and south of the proposed Hambright Road alignment to be developed as office, light industry, and multi-family with limited commercial/retail to support the primary office and light industrial uses are recommended. If the Town Board amends the 2040 Community Plan, then the Planning Board recommends approval of the rezoning because it is consistent with the following policies of the 2040 Community Plan, LU-5, LU-7, EV-

1, T-3, T-5. The rezoning is also supported by the Eastfield Small Area Plan, specifically the recommended future land uses for Planning Zone 1. Recommendation for approval is based on all the conditions for approval outlined in the Staff Report being addressed to the satisfaction of staff, except for two items; 1) the applicant work with staff to enhance the northern buffer berm to what is acceptable with staff, and 2) not to include the requirement of the extension of Everette Keith Road. With those conditions, it is reasonable and in the public interest to extend the Employment Center designation and rezone the 59.66 acres from Transitional Residential to Corporate Business – Conditional District because it would then be consistent with the 2040 Community Plan. It is essential to the Town of Huntersville to have a balanced and diverse tax base that also includes development projects that provide for employment opportunities that provide for employment opportunities for citizens within or close to the Town limits. The request is also consistent with the Eastfield Small Area Plan and the applicable provisions of the zoning ordinance. G. Baber seconded the motion.

S. Hensley commented that the buffer and following the ordinance are important. In this situation, it is difficult enough to find land that could be rezoned for employment within Huntersville and he thinks that for that purpose the land should be maximized and utilized to the highest density possible. The impact of the reduced buffer and potential public harm do not seem significant in this location to require an adjustment to the potential project. The comment regarding the road improvements that have already been completed in this area and the future ones that will occur make this a great location for what is proposed.
G. Baber commented that the biggest concern he had coming into this rezoning request is addressed with the extension of the Employment Center and no residential being able to be developed adjacent to this parcel to the east. In his opinion, this parcel is better suited for this use versus residential.

L. Hallman commented that he supports the expansion of the commercial development in this location, and he knows the landowners there have been working on a deal for over six years with the first deal falling through and they would like to move on.

F. Gammon commented that in his opinion the 2040 Community Plan, LU-11 reduction of housing stock does not apply well to this situation. The American Dream is to invest in your home and someday cash in on that wealth so if the right project comes along, it is an opportunity. This is an example of how the 2040 Community Plan works. It is a guide and it can be modified if there is justification for modifying it.

Vote: The motion passed unanimously (5-0).

Motion: C. Boyd made a motion to Reinstate J. Sny. S. Hensley seconded the motion.
Vote: The motion passed unanimously (5-0).

Item 4B: Make a recommendation on petition #TA23-01 Street Trees, a request by the Town of Huntersville Planning Department in cooperation with the Engineering and Public Works Departments to amend Articles 7.7, 5.5, and 12 of the Zoning Ordinance to provide options for developers to reduce impacts caused by street trees while meeting the guidelines of the Huntersville 2040 Community Plan and the intent of the Zoning Ordinance.
L. Speight, Planner II entered her staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the proposed text amendment.

S. Trott, Director of Engineering presented on behalf of Engineering and Public Works.

G. Baber asked staff to confirm what the reference to municipalities outlined in the staff presentation. Staff stated that the list identified 10 local area cities with street tree requirements, 7 of which listed in green are within Mecklenburg County.

G. Baber asked how the sidewalk would remain consistent within a development if the lot sizes vary. Staff confirmed that the developer would select from the options permitted in the zoning ordinance based on their proposed lot sizes prior to development.

G. Baber asked if there was any consideration to reducing sidewalks to one side of the street to reduce maintenance cost. Staff replied that would not be a recommendation from the Planning Department as pedestrian access and safety would be the priority.

F. Gammon asked a follow up question regarding the lot size and expressed concern that note one does not address reality, it needs more thought and wordsmithing to clearly define the developer's options since sketch plans are administrative decisions. Staff responded that the transition typically would occur street by street, or phase by phase as seen in areas where townhomes have smaller green areas on smaller lots, and estate lots have larger green areas on larger lots.

L. Hallman asked F. Gammon why the HOAB recommended the removal of the 5-foot wide area. F. Gammon commented the depth of the lot has adjusted from the time the HOAB heard the discussion. Staff commented that there was also concern was over increasing yard trees versus street trees.

L. Hallman asked S. Trott if the repairs are primarily within the 5-foot or 7-foot buffers. S. Trott said he would have to ask K. Fox for that information and then commented that it will take several years to see the effects of these text amendments as it will affect development approved following any amendments and then several years later when the development is built, and the trees mature enough to see what they will do.

C. Boyd asked staff if we have the ability to apply this to approved developments that have not yet been developed. Staff confirmed that they have their entitlements; however, the updated street tree list will apply to what type of trees are planted and site distance is reviewed for distance of trees to signs, light posts, etc.

C. Boyd asked if an arborist has recommended a root barrier method of planting. Staff confirmed that discussion with the arborist has not yet occurred and stated that alternative planting methods are being researched as it relates to the trees and the sidewalks to use best practices to ensure damage is minimized in anyway possible.

F. Gammon asked if staff if the 5-foot width were to be implemented, do we need to indicate where the tree would be planted within that space to control how close it is to the sidewalk or the right-of-way. Staff responded that there is an Engineering Standards manual that tells the developers how each of these things must be done to meet the standards.

Motion: L. Hallman made a Motion to recommend Approval of TA23-01 based on the amendment being consistent with policies EOS4.1, EOS4.3 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it will provide developers with multiple options to comply with the street tree guidelines of the Huntersville 2040 Plan as well as the intent of Article 7 of the Zoning Ordinance, to continue to provide Huntersville with the benefits of a robust tree canopy while reducing maintenance impacts to the public right of way. C. Boyd seconded the motion.

L. Hallman commented that he thinks this is a good thing and the right mix of trees that will keep our tree canopy and tries to mitigate the damage.

C. Boyd agreed and stated that we need to have faith in the Town staff and Inspectors to make sure things are put in the correct place, the correct trees are selected and make sure that the sidewalks are consistent and make sense in a development.

F. Gammon commented that he likes the proposed text but not that additional yard trees could be required which has the potential of putting a burden on the homeowner. There still may be an issue out towards the street which is why he supports the wider green area because he would like to see the maintenance cost reduced. Despite this, he has an issue with the burden potentially falling on the homeowner with the potential of additional yard trees, and the expense of root damage to any of the lines from the sidewalk to the house falling on them. For that one reason he will not vote for the motion, despite being in support of the balance of the amendment, and he would like the Town Board to consider that when they hear this motion.

S. Hensley commented that he is concerned about potential ramifications to the tree canopy in the future that the Town has worked so hard to protect for the last 20+ years. He then asked what the real root cause is of the amendment, is it the annual maintenance expense? Staff responded that that was largely the reason for the amendment. He then followed up with stating, as a Board, they need to ask themselves what is more important, the trees or the maintenance. He will support the amendment.

C. Boyd commented that he would like to understand the peak of the potential maintenance expenses to understand the effect of the tree planting that has occurred to date. He would also like to understand how this could affect the tree canopy based on land availability and average lot sizes. Staff responded that tree canopy loss would most likely only occur when land is rezoned from Rural or Transitional Residential to a denser zoning such as Neighborhood Residential, or other mix.

L. Hallman commented that he looks at tree canopy and sidewalks both as a quality-of-life element and it is unfortunate that those two things conflict with each other. There is a price to pay for it but we should identify how to come up with that price because we are increasing density which hurts the tree canopy overall but also increases tax payers to pay for the repairs which would allow us to keep our trees alive and healthy and repair our sidewalks.

J. Sny commented that there were some inconsistencies within the photos used in the presentation. In his opinion, the maintenance cost going out is actually much higher than what is being stated because it was not budgeted for this type of repair, it was for road repair which is now deferred maintenance. He agrees with staff that a lot size of 50-feet wide by 40-feet deep is very rare and he is not sure that would be sufficient to warrant additional yard trees with what the setbacks would be. He expressed concern about the inspection process and the plantings being done accurately by the developers. It may be that the Town would be better off having the developers put the funds into an account and the plantings being done by Town staff to ensure that it is done accurately with the right types of trees.

Vote: The motion passed (5-1) with F. Gammon opposed.

Other Business

Item 5A: Consider appointments of the Chair and Vice-Chair for the Planning Board

The Board had discussion about deferring Item 5A to the August meeting due to three members of the Board not being present.

Motion: C. Boyd made a Motion to Defer Item 5A to August 22, 2023, meeting. L. Hallman seconded the motion.
Vote: The motion passed unanimously (6-0).

Adjourn
Motion: S. Hensley made a Motion to Adjourn. C. Boyd seconded the motion.
Vote: The motion passed unanimously (6-0).

Approved this 22 day of AUGUST 2023.

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Chairman or Vice Chairman

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Board Secretary