Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, January 23, 2024.

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, L. Hallman, J. Wright, J. Henson, S. Hensley & T. Loomis
Absent: None

Approval of Minutes
Item 2A. Consider approval of the September 26, 2023, Regular Meeting Minutes
Motion: S. Hensley made a Motion to Approve the September 26, 2023, minutes. C. Boyd seconded the motion.

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

Public Comments: Anna Ruben, 16214 Hollyburn Road voiced her concerns about the proposed Morningstar development. She urged the town to adhere to their design and architectural standards, emphasizing the importance of an 80 ft buffer yard for the development site. Anna stated that the three-story, 103,000-square-foot construction proposal was mismatched with the existing landscape, both in scale and aesthetics. She recommended that the developer reduce the building size to reflect the local area's character and maintain the mandatory buffers for citizen protection.

Action Items
Item 4A: Consider a recommendation in #TA23-07, a request by the Huntersville Planning Department for a text amendment to Article 12, Section 12.2.1 "Interconnected" to clean up definition.
P. Patterson, Planner I 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 text amendment.

Motion: C. Boyd made a Motion to recommend Approval of the proposed amendment TA 23-07. The Planning Board recommends approval of the amendment to provide clarification. It is reasonable and in the public interest to amend the zoning ordinance because it will provide clarification to the language. T. Loomis seconded the motion.

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

Item 4B: Consider a recommendation on #TA23-06, a request by the Huntersville Planning Department to amend the Zoning Ordinance to comply with House Bill 488.
N. Farber, Planner II 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 the proposed text amendment and related House Bill that has already been passed on the state level.

J. Sny commented that this item was considered by the Ordinance Advisory Board and received an original vote of (4-2-1) to table the item with a request to the Planning Staff to bring the item back

before the Ordinance Advisory Board after further review of the House Bill and to resolve some areas as the Board noted. He then referenced citations to establish that this motion to reconsider conducted at the October 5, 2023, Ordinance Advisory Board meeting related to this item did not follow Robert's Rules of Order and should be considered invalid. He then invited the Legal Department to make comment and stated his recommendation would be to return the item to the Ordinance Advisory Board based on the tabled motion direction. Legal responded and there was further discussion resulting in the comment that with or without recommendation, an item considered by the Ordinance Advisory Board may move forward to the Planning Board. Since the Public Hearing has already occurred for this item, it was recommended that the Planning Board proceed with hearing and voting on this item with all concerns noted for the consideration of the Town Board that will make the final decision.

The Board had further discussion related to concerns over the clarity of the proposed amendment and to offer recommendations of references to state statutes, not overstating items that are being regulated by other authorities, and ensuring that the proposed amendment is thorough, accurate and not misleading for residents. Legal staff advised the Planning Board that they may include any recommendations in their motion for the Town Boards consideration.

Motion: F. Gammon made a Motion to recommend Approval of petition TA23-06 sections 1 and 2 of the amendment based on consistency with all policies in the Huntersville 2040 Plan and compliance with state statutes. It is reasonable and in the publics interest to amend the Zoning Ordinance because section 1 and 2 comply with the Huntersville 2040 Plan and state statutes. In considering section 3, the Planning Board does not recommend approval because it does not convey an accurate interpretation of state statute, building permit requirements and exceptions. For example, the Huntersville Zoning Ordinance requires a building permit to install a repair water heater. While the state statute General statute 160 D 1110 referenced above does not require a building permit to install or repair a water heater in one- or two-family dwellings as long as specific criteria outlined in the statute are met. In addition, there may be other exceptions that are allowed in the North Carolina Journal statute 160 D dash 1110. Section one M that impact the town zoning units that should also be identified and addressed. L. Hallman seconded the motion.

The Board had discussion related to the specific elements of section 3 that there were concerns over. The concern over not including a reference to the state statutes like what is included in section 1 and 2 was noted. The Board expressed a desire not to mislead the resident and properly reflecting the intent of the state statute. Members of the Board confirmed that after the discussion and concerns expressed that Staff and the Legal department are comfortable with the proposed language. The Board discussed proposed amendments and wording changes.

Substitute Motion: S. Hensley made a Substitute Motion to recommend Approval of petition TA23-06 based on consistency with all policies of the Huntersville 2040 community plan in compliance with state statutes with the exception and revision to section three, one, replace a building permit is generally required for the activities below with the language, "A building permit may or may not be required for the activities below." It is reasonable in the public interest to amend the zoning ordinance because it complies with the Huntersville 2040 community plan and state statutes. J. Henson seconded the motion.

L. Hallman requested an amendment to include to the end of section three, one the phrase, "Notwithstanding the foregoing, nothing in this subsection shall be interpreted to conflict with NCGS 60 D 804 160 D 804." Legal advised that the correct reference is NCGS 160D, 1110. S. Hensley and J. Henson accepted the amendment with the correct reference to be confirmed by staff.

J. Sny commented that he would not support the motion due to the Roberts Rules of Order not being followed and this and that Board deserves to hear the item again. S. Hensley confirmed that any Board members feeling strongly about that he would be happy to bring the item up again at the Ordinance Advisory Board.

Amended Substitute Motion: Recommend Approval of petition TA23-06 based on consistency with all policies of the Huntersville 2040 community plan in compliance with state statutes with the exception and revision to section three, one, replace a building permit is generally required for the activities below with the language, "A building permit may or may not be required for the activities below." Then to add to the end of the paragraph, "Notwithstanding the foregoing, nothing in this subsection shall be interpreted to conflict with NCGS 160D, 1110." It is reasonable in the public interest to amend the zoning ordinance because it complies with the Huntersville 2040 community plan and state statutes.

Vote: The motion passed unanimously (6-3) with F. Gammon, J. Sny, and L. Hallman opposed.

Item 4C: Consider a recommendation on Petition #R23-10, Commercial Communication Tower, a request by Berkley Group III, LLC to rezone +/-6.00 acres located at 15105 Holbrooks Road from Transitional Residential and Neighborhood Residential District to Special Purpose - Conditional District.

N. Farber, 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 the proposed rezoning details.

J. Sny asked questions of the applicant's representative, Mr. Irvin, 19726 Zion Avenue Cornelius related to an aeronautical study or a light study related to the height of the tower, FAA requirements, and its proximity to Bradford Field. The representative responded that he would have to determine if an aeronautical study was conducted or deemed necessary given the distance to the airfield. The height and lack of a blinking light were a direct result of the community meeting concerns and are in keeping with FAA requirements.

The Board confirmed that the easement is deeded, access is confirmed and will be in perpetuity. Staff confirmed that any changes to the easement would require the applicant to submit a rezoning request.

The Board confirmed the benefits of the proposed tower. The applicant Tim Sutton 9014 Corners, Creek Road, Charlotte, North Carolina stated that the proposed tower is to address current and future needs with a goal of not having to do an incremental build out.

The Board asked what the plans are to preserve the easement in the event that Greenway Recycling reaches a sunset period as a landfill. The applicant, John Brown, 11743 Trails End Lane confirmed that the recycling facility has a permit that operates in perpetuity.

Motion: G. Baber made a Motion to recommend Approval of petition R23-10, Communications Tower. The Planning Board recommends approval based on the plan being consistent with the Huntersville 2040 Community Plan policies PS-1, LU-1 and with the Holbrooks Road Corridor plan, it is reasonable in the public interest to approve the rezoning plan because it is consistent with the envisioned used and development pattern set forth in the 2040 Community Plan, Holbrook Road Corridor plan, and in keeping with the spirit of the ordinance. C. Boyd seconded the motion.

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

Item 4D: Consider a recommendation on Petition #R23-11, Morningstar Storage, a request by Morningstar Properties to rezone +/- 3.934 acres located at 16230 and 16204 Old Statesville Road from Special Purpose and Highway Commercial to Special Purpose - Conditional District for an indoor storage facility.

J. James, Principal Planner 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 rezoning, identified the modification requests, and shared that staff finds the proposed rezoning appropriate with the recommended conditions.

The Board had extensive discussion related to the proposed southern BMP location, the buffer requirements, the street tree requirements, proposed architecture, proposed height, proposed landscaping, pedestrian considerations, and current permitted uses of the land without a rezoning request. Staff and the applicant representative, Marshall Macon, 4019 Abingdon Road Charlotte responded to the Boards questions.

Motion: C. Boyd made a Motion to recommend Approval of rezoning petition R23-11 Morningstar Storage, the Planning Board recommends approval as the request is generally compliant with the Town of Huntersville site design and architectural standards within the Zoning Ordinance and tied into the land use policies. LU-51 and T-51 but not consistent with the envisioned uses set forth in the 2040 Huntersville community plan sections LU-1 and LU-6.3. The current zoning designation of the parcel 01101208 is special purpose which comprises roughly three of the four acres in the proposal and does not permit by right, the proposed use thus rezoning the approximate four-acre site to special use conditions for approval. Modification request to reduce property line buffer from 80 ft to 66 ft, the Board can recommend this request if the applicant can prove that by reducing the buffer, the matching plantings can be sustained in the 66 ft wide buffer area. The Board recommends providing 1000 square foot buffer section on the proposed purpose conditional district for reason of gaining the needed land to allow the site to come into conformity with the zoning ordinance. Buffer requirements is appropriate with the following conditions, 1) landscape that shows the mature growth of the plantings can be achieved with the reduced buffer proposal and underground storage under the parking lot in lieu of the existing drainage shown on plans of the BMP within the southeastern buffer. 2) Minor staff site review comments are addressed it is reasonable in the public interest to approve the rezoning plan because the rezoning is consistent with the land use in the general vicinity and meets the site and architectural standards for Huntersville. L. Hallman seconded the motion.

T. Loomis stated she would not support the motion due to the buffer modification given the scale and massing of the proposed building.

S. Hensley commented that his personal preference would be to see the reuse of the existing structures and not to see a development of this scale at this location. He went on to state that he also believes in personal property rights and understands that it is the property owners' rights to sale his land and that the existing three acres are already zoned to permit this use.

C. Boyd commented that he was not in support of the height and glass after the public hearing until the Board discussion highlighted that the same structure design and height could be achieved on the current three acres and this proposal allows for the mature plantings on the southern side.

G. Baber asked staff to confirm their request of the applicant regarding the 1000 square foot buffer section. Staff confirmed that they are looking for a landscape plan forecasted at full maturity to demonstrate the desired appearance.

F. Gammon commented that his area of concern is the removal of the 80 foot buffer on the McCord and Highway 115 sides based on the architectural standards being met by the applicant. He weighs that against the fact that this commercial use will bring tax dollars to the Town and his preference that this no become a gas station at this corner.

J. Sny commented that he is not personally excited by this project and he would prefer to see this corner more activated but he will vote for it as it does support the tax base and he understands the other challenges of the constrained road system and schools.

J. Henson commented that the massing on the street is his greatest concern and while the project does not excite him, he understands that this is not the criteria for his decision on this Board.

L. Hallman commented that what the building is permitted to be now on the existing 3-acres leads him to supporting this as the architectural interest the applicant adds to reduce the buffers are positives. Additionally, the storage is valuable for small business owners and online business owners, as well as people looking for more affordable housing that will yield less storage options.

Vote: The motion passed unanimously (8-1) with T. Loomis opposed.

Other Business
Item 5A: Consider approval of the 2024 Planning Board Meeting Schedule
Motion: J. Sny made a Motion to Approve the 2024 Planning Board Meeting Schedule with November and December meetings to be held on the third Tuesday of the month. F. Gammon seconded the motion.
Vote: The motion passed unanimously (9-0).

Adjourn
Motion: T. Loomis made a Motion to Adjourn. C. Boyd seconded the motion.
Vote: The motion passed unanimously (9-0).

Approved this 27 day of FEBRUARY 2024.

Chairman or Vice Chairman

Board Secretary