

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 $\frac{3}{4}$ 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 $\frac{3}{4}$ 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. Snyder 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. Snyder 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.

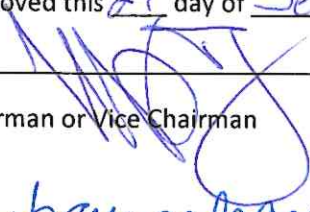
The Board appointed J. Sny as Chair and J. Henson as Vice-Chair for a one-year term.

Adjourn

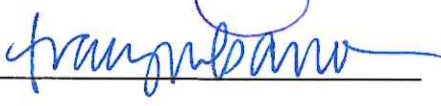
Motion: J. Henson made a Motion to Adjourn. J. Sny seconded the motion.

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

Approved this 24 day of SEPTEMBER 2024.



Chairman or Vice Chairman



Board Secretary

