



**Huntersville Ordinances Advisory
Board Agenda
October 7, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

- NOTICE VIRTUAL MEETING -

Virtual Meeting Information - Members of the public may view the meeting on RingCentral at: <https://webinar.ringcentral.com/j/1460135935> or by telephone at: (470)869-2200 with Webinar ID: 146 013 5935

- A. **Adoption of September 2, 2021 Minutes** (Attachment 1)
- B. **Comments from Audience (3 minutes per person allocation)**
- C. **Other Business**
 - 1. Discussion on Rooftop Amenity Spaces and building height limits (amenity to comply with existing building height or establish special provisions for rooftop amenities? Attachment 2, 3).
 - 2. Recommendation on TA21-11, an amendment to 1) standardize existing requirements for Special Use Permits and delete repetitive standards; and 2) amend definitions of major and minor variances from Watershed regulations and findings of fact required for variances from Watershed regulations to be consistent with the North Carolina Administrative Code (Attachment 4).
 - 3. Recommendation on revised language for TA21-08, an amendment to clarify S.W.I.M. Buffer Delineation methods (Attachment 5)
 - 4. Recommendation on TA21-14, an amendment to 1) revise definitions of major and minor subdivision definitions to allow property owners to administratively record new right-of-way and improvements to existing public streets and provide greater flexibility for sewer and water options for property owners 2) clarify existing requirements for Farmhouse Cluster Plans (Attachment 6).
- D. **Adjourn**



**Huntersville Ordinances Advisory
Board Minutes
September 2, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

A. Call to Order

Attendance: M. Jones, T. Taylor, D. Boone for L. Munger, K. Jones, J. Henson, S. Moore (departed), F. Gammon, T. Finlay (arrived 3:36 pm), and B. Skelly

Non-voting members present: J. Simoneau, J. Glass & T. Barron

B. Adoption of August 5, 2021 Minutes (Attachment 1)

S. Moore made a Motion to Approve the August 5, 2021 Minutes. L. Munger seconded the motion.

C. Comments from Audience (3 minutes per person allocation)

D. Action Items

1. Recommendation on TA 21-12 TIA Amendment Options: 1) Increase Thresholds; 2) Repeal TIA (Attachments 2, 3, 4, 5, 6)

S. Trott, Town Engineer for the Town of Huntersville presented the proposed changes to the TIA which include: 1) raise the threshold to complete a TIA to 150 peak hour or 1,500 daily trips, 2) Town Engineer may waive Town TIA if NCDOT is requiring a TIA, 3) Raise the threshold for intersections to be studied or A) Not require a TIA for the Town.

A review of projects that currently require Town TIA but do not result in mitigation and current NCDOT required TIA levels.

L. Munger asked why there are delays on TIA recommendations being implemented. Staff responded that there can be numerous reasons not limited to challenges with obtaining right-of-way, phases of TIA's, development not actually occurring, and more. L. Munger responded that he agrees with the first two recommended changes and believes that we should not be requiring a TIA if NCDOT is requiring one.

K. Jones asked what happens if a TIA recommendation is unable to be completed due to the impact or inability of the developer to obtain the right-of-way. M. Jones responded that this is the complexity associated with the TIA and there is not a great method to come up with a simple, effective, transparent, predictable set of rules.

S. Moore stated that based on what the subcommittee went through on this topic, he is in support of repealing the TIA.

F. Gammon asked if removing the TIA saves funds that could be better spent on other areas of concern for the Town and if it would be removing something that the citizens should have access to either in information or results. Staff responded that there is a review fee paid by the developer so that is not a fee the Town is incurring, and historically if an NCDOT TIA is required the recommendations are similar.

J. Henson reviewed if the Town can impose a TIA study in addition to what NCDOT is recommending. Staff responded that if the TIA were eliminated and the development did not tie into the intersection that he would see it as being more challenging. There may be a provision to complete the study if there was a safety concern in our ordinances.

M. Jones reviewed the issues related to the state statutes and the disproportionate impact that is being created under the current mitigation requirements and repealing the TIA would not limit the Town in the actions that they could take. New policies and procedures would need to be implemented to fully work out these changes and possibly capture mitigation on items that currently are not requiring mitigation.

L. Munger asked if we eliminated the TIA would we be adding to the burden of staff to assess each situation to determine if mitigation is likely and should be studied. He would argue that the Town still needs a method to find the projects that do not meet NCDOT requirements but are still hitting a yes for mitigation under the current methods. If we chose to raise the bar it would be equal, transparent and not subjective.

M. Jones commented that the Rural and TR zoned intersections minimum level of service is a "C." One of the things that the subcommittee identified was that it doesn't matter what the level of service is, you need to identify what the impact is to the intersection which is not currently achieved through the TIA. If the intersection is currently at a "B" level and the development does not drop it below a "C," there is no mitigation required so the impact is not being picked up. This makes the requirements not equitable. Almost all new development creates some form of impact, and that impact could be equitably shared, which in his opinion would be a better solution.

L. Munger asked why that option is not currently on the table. K. Jones agreed that she would like to consider that option and could not support ending the Town TIA altogether. Staff commented that this amendment is scheduled to go to a Public Hearing on October 4 and if there is no specific recommendation for the options proposed then it could be considered at the October meeting so that there is a recommendation before the Planning Board and Town Board meetings.

J. Henson commented that changing the threshold just for the sake of a change doesn't seem sufficient. No one wants the burden to be on the Town or citizens. It would be great to find the solution that quantifies the use so that it could be equitably shared.

S. Moore made a Motion to Repeal the TIA. J. Henson seconded the motion. The motion failed (3-6) with L. Munger, K. Jones, T. Finlay, F. Gammon, B. Skelly, T. Taylor opposed.

L. Munger made a Motion to Approve adjusting the TIA to raise the threshold to complete a TIA to 150 peak hour or 1,500 daily trips and that the Town Engineer may waive Town TIA if NCDOT is requiring a TIA. K. Jones seconded the motion.

T. Finlay asked if the alternate option M. Jones spoke of would involve adjusting the peak hour volume. M. Jones responded that it is generally based on the number of trips based on a subdivision.

The motion passed (6-3) with M. Jones, J. Henson, S. Moore opposed.

F. Gammon requested that S. Trott add to the slide listing mitigation requirements the line that would be created under the recommended changes so that the Boards can see how this would

change.

2. Recommendation on TA 21-13, an amendment allowing perennial streams in the Mountain Island Lake Watershed Overlay District that drain under 50 acres to be impacted if approved through a Corporate Business Conditional District rezoning in the (Attachments 7, 8)

J. Simoneau, Planning Director reviewed the proposed text amendment. He reminded the Board that there are three different codes that provide stream protection. This amendment would affect only the Watershed Protection Overlays which are regulated by state statute and which locally can be more restrictive but not less restrictive than the state statutes. Article 3.3.2 and 3.3.3 overlay zone perennial streams. This amendment would allow impact of a stream for 50 acres or less with conditional district rezoning in Corporate Business if mitigation is involved.

The proposed amendment has been run through to verify there are no state issues and they are not opposed. Mecklenburg County Water Quality is not opposed and Rusty Rozzelle is on the line to answer any questions.

F. Gammon commented that any stream under 10' would not show on the USGS so he would like to see the County method also applied, he then asked if there are other properties in Huntersville that could also be rezoned this way. Staff confirmed this could also apply to other properties but it is limited to Corporate Business zoning due to industrial flex space consuming a large footprint and making it very challenging compared to development of multiple buildings. F. Gammon concluded with expressing his concern that these text amendments will continue to chip away at this.

L. Munger asked why this would apply to PA-2 only and not PA-1 also. Staff commented that the text amendment is sponsored by the applicant who is in PA-2 and PA-1, as of today, does not have much if any Corporate Business within it and it would likely be very difficult for them to rezone to accommodate this.

Cindy Reid, Irvin Law Group 19726 Zion Ave, Cornelius, NC 28031 commented for the applicant that this amendment would affect a very limited number of properties because they must be zoned Corporate Business and go through a Conditional Rezoning. Additionally, the Huntersville 2040 Plan identified this area for industrial so this amendment would assist with making that possible.

J. Glass, Town Attorney commented that the language will still be required to go through formal approval by the State.

M. Jones reviewed clarifying statements related to jurisdiction of the stream and implications of State approval.

L. Munger made a Motion to Approve the amendment TA21-13 to Articles 3.3.2-B(g)(10) and Article 8.25.10 as stated by staff. J. Henson seconded the motion. The motion passed (6-1) with F. Gammon opposed and S. Moore and T. Finlay not present.

E. Discussion Items

1. Review Text Amendment Checklist (Attachment 9)

M. Jones commented that the goal of the checklist is not to create additional burden on staff but rather to create a standardized view at items that are being considered by the Board and to help expedite some of the review by the Planning and Town Board for questions that they commonly

have.

F. Gammon recommended adding: Does it increase/decrease administrative and/or financial burden of the citizen?

M. Jones stated that T. Taylor's previous comment that compliance with comprehensive plan should be included in the checklist. He then asked L. Munger and F. Gammon if there are typical questions that are raised on their Boards that would be good to add to the checklist.

L. Munger commented that question 6 (Does it increase/decrease administrative burden of staff?) is a good one because the Town Board wants to know what sort of burden will be created and if there are resources for the request already identified. He then asked what the intent is for number 13 (If an exaction is it closely related and roughly proportional to the effects of the proposed land use?). M. Jones responded that this question is directly related to two case laws on exaction and Zoning Ordinances.

Staff commented that the checklist is not recommended by staff but understands that it is the desire of the Board and so it would be the Board to use. The question was then posed on question 9 (Does it impact the free use of real property and the right to improve one's property?) what would result from the answer? In some cases the impact may be appropriate because it is good for the community. Staff stated that if there are any additional questions related to the checklist they and Town Attorneys would be happy to field them by email.

M. Jones confirmed that the intent is not to create an administrative burden but for the Board to use in their review.

2. Legal refresher on text amendments and conflicts of interest (Attachment 10)

Staff confirmed that the legal refresher was provided to all Board members in the agenda packet for individual review. If any members have questions, please email them to Staff and Town Attorneys and they will be addressed at the October meeting.

F. Adjourn

M. Jones made a Motion to Adjourn. L. Munger seconded the motion. The motion passed unanimously (7-0) with S. Moore and T. Finlay not present.

Rooftop Amenity Spaces & Building Height

- North State Development, LLC rezoned 9.94 acres through a conditional rezoning to TC (CD) (R20-03). The developer is considering adding a 750 SF rooftop amenity space on the top corner of a mixed-use building where Gilead Rd will meet Public Street A (Parcel 01711616).
- The conditional rezoning for this project allowed a maximum building height of 52.5'. Without a rooftop amenity space, the proposed mixed-use building height is 52.5'.
- Article 8.7 states that no area intended for human occupancy can exceed the height of buildings (in this case, 52.5').
- Currently, a rooftop amenity space for the mixed-use building would not be permitted because it would increase the building height past the allowed maximum of 52.5'.



Approved Rezoning



Potential Rooftop Amenity

- Huntersville staff seeks feedback from the Huntersville Ordinance Advisory Board to determine if rooftop amenities should be limited to the maximum building type height OR if there should be a specific provision allowing roof top amenities to exceed the maximum building height standards.
- Building height limits are as follows unless adjusted through a conditional rezoning: **Workplace-45'**; **Shopfront-48'**; **Highway Commercial-36'**; **Apartment-36'**; **Detached & Attached House: 30'**.
- Research was conducted regarding rooftop amenity spaces; North Carolina municipalities reviewed were Chapel Hill (no language), Charlotte (allowed in TOD zone with location, setback, screening, & noise standards) and Asheville (allowed in 1 district; count as open space; location, size, access, setback, lighting, screening, noise, height encroachment, enclosure).
- Portland OR, Palo Alto CA, and Kirkland WA were also examined for language on rooftop amenity spaces. Portland had no rooftop amenity space language. Palo Alto had some provisions (open space classification; location, access, setbacks, lighting, screening, noise, height encroachment).
- Per Kirkland, WA Zoning Ordinance, Rooftop Common Room is defined as an exterior covered area or an interior enclosed space on a building rooftop that is available to all building occupants and does not provide exclusive space to any specific units. Rooftop Amenity is defined as temporary or permanent structures that are on a building rooftop. Rooftop common rooms and rooftop amenities are only permitted on structures containing stacked dwelling units and/or commercial units, where no portion of the property is adjoining a low-density residential zone. Furthermore, the ordinance specifies the height of the rooftop common room shall not exceed 15 feet or the height of the story immediately below the rooftop common room, whichever is less.

The Town of Huntersville has several options to regulate building height of rooftop amenity spaces.

- **Option A.** Leave the Zoning Ordinance as is and a rooftop amenity space must fit within the allowed maximum building height for its building type.
- **Option B.** Zoning Text Amendment to Article 8.7 that specifies rooftop amenity spaces can extend a certain amount of feet above the allowed maximum building height with some conditions (see Kirkland).
- **Option C.** Wait until the Downtown Plan is completed to see if any changes are recommended (NOTE: rooftop amenity provisions can be town-wide and not limited to downtown).

Huntersville, NC

Zoning Ordinance

- **Article 8.7 – Height Limitation**

- 1. The height of habitable buildings and components is controlled by building type ([Article 4](#)).
- 2. Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings.
 - When adjacent to a lot or lots located in a residential district, any part of a non-civic structure which extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground. In all other instances, any part of a non-civic structure which extends above the height limit must be separated from lot lines by a minimum distance of one foot for every four feet in height measured from the ground.
- 3. The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.

- **Article 3.2.6 – Town Center**

- Permitted Building and Lot Types
 - mixed use (4) up to 50,000 SF of first floor area; larger buildings may be permitted with a special use permit
 - storefront up to 50,000 SF of first floor area; larger buildings may be permitted with a special use permit
 - (4) 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.

- **Article 4 – Shopfront Building**

- Techniques- B. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.
- Permitted Height and Uses
 - 1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
 - 2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
 - 3. Building height to the ridge may vary depending on the roof pitch.
 - 4. Permitted uses are indicated above, and are further controlled by district regulations.
 - 5. Where an existing residential building converts to a mixed-use building, at least 40% of the habitable floors area shall be residential.

Rooftop Spaces

- Architectural Standards Principles
 - A. Development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external materials.
 - B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
 - C. The front elevations facing the street, and the overall massing shall communicate emphasis on the human scale and the pedestrian environment.
 - D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.

Kirkland, WA

Notes

- Did [Text Amendment](#) in 2020 to become more friendly and provide regulations for Rooftop Spaces
- Population: ~89,000

Definitions

- **.816 Rooftop Amenities** - Structures such as landscape planters, guards or railings, decking material, seating, play equipment, kitchen and/or barbecue elements, hot tubs, animal runs, fire pits, umbrellas, trellises, and similar temporary or permanent items that are on a building rooftop, available to all building occupants, and do not provide exclusive use to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)
- **.818 Rooftop Common Room** - An exterior covered area or an interior enclosed space on a building rooftop that is available to all building occupants and does not provide exclusive space to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)
- **Low Density Residential Zones**- Kirkland, WA has Chapter 15 Low Density Residential Zones in their Zoning Ordinance that specifies which of its zoning districts are low density residential zones
 - **15.05.010 Applicable Zones**
 - This chapter contains the regulations for uses in the following zones of the City: RS, RSX, RSA, WD II, PLA 3C, PLA 6E, PLA 16
- **.817 Rooftop Appurtenances** - HVAC equipment, mechanical or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that extend above the roofline of a building, but not including personal wireless service facilities as defined by KZC 117.15 or solar panels as defined by KZC 5.10.881.1.

Development and Performance Standards

- **115.122 Rooftop Amenities and Rooftop Common Rooms**
 - The intent of these rooftop amenity and common room regulations is to specify height and size allowances for such items above the maximum height of structure. These regulations do not apply to rooftop amenities and rooftop common rooms that are below the maximum height of structure.
 - 1. Scope – The regulations contained in this section apply only to structures containing stacked dwelling units and/or commercial uses, where no portion of the subject property is adjoining a low-density residential zone.
 - **Low Density Residential Zones**- Kirkland, WA has Chapter 15 Low Density Residential Zones in their Zoning Ordinance that specifies which of its zoning districts are low density residential zones
 - 2. Noise – Rooftop amenities and amenity spaces, and rooftop common rooms, are subject to the noise regulations described in KZC 115.95.

Rooftop Spaces

- 3. Lighting – Rooftop amenities and amenity spaces, and rooftop common rooms, are subject to the below lighting standards:
 - a. Lighting regulations described in KZC 115.85(1);
 - b. All exterior light fixtures shall be directed downward and use “fully shielded cut off” fixtures as defined by the IESNA, or other appropriate measure to conceal the light source from adjoining uses; and
 - c. All exterior lighting associated with rooftop amenities and amenity spaces, and rooftop common rooms, shall be turned off after business hours or 10:00 p.m., whichever is later, with the exception of necessary lighting for site security. On portions of property adjoining low density residential zones, such lighting shall be turned off after business hours or 10:00 p.m., whichever is earlier.
- 4. Access – Rooftop amenities and rooftop common rooms that exceed the maximum structure height shall be available to all residents of a multifamily structure or to all tenants of a commercial structure, with no additional fee for access required. For mixed-use structures, access requirements shall be based on the predominant use of that structure. Rooftop amenities and rooftop commons rooms that exceed the maximum structure height shall not provide exclusive use to any specific units/suites or group of units/suites.
- 5. Allowable Height and Size – Rooftop Amenities
 - .816 Rooftop Amenities - Structures such as landscape planters, guards or railings, decking material, seating, play equipment, kitchen and/or barbecue elements, hot tubs, animal runs, fire pits, umbrellas, trellises, and similar temporary or permanent items that are on a building rooftop, available to all building occupants, and do not provide exclusive use to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)
 - a. Rooftop amenities surrounded by approved guards or railings may exceed the maximum height of the structure for the zone by a maximum of four (4) feet.
 - b. Guards or railings enclosing rooftop amenities space may exceed the maximum height of the structure for the zone by a maximum of four (4) feet and shall be set back from the building edge a minimum of five (5) feet. Railings shall be of a transparent or majority-open design such as glass, cabling, picket, or other similar types of railings.
 - c. Rooftop amenities may not exceed the maximum structure height if any portion of the subject property adjoins a low-density residential zone.
- 6. Allowable Height and Size – Rooftop Common Room
 - .818 Rooftop Common Room - An exterior covered area or an interior enclosed space on a building rooftop that is available to all building occupants and does not provide exclusive space to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)

Provided, that no portion of the subject property adjoins a low density residential zone, the Planning Official may approve the addition of a rooftop common room if:

Rooftop Spaces

- a. The applicant submits accurate graphic representations or other information that demonstrates that:
 - 1) Views from adjoining properties will not be significantly blocked by the rooftop common room; and
 - 2) The location and orientation of the rooftop common room is such that the visibility of the rooftop common room from adjoining properties and streets will be minimized; and
 - 3) All walls of the rooftop common room must contain transparent windows comprising at least 75 percent of the area of the facade between two (2) feet and seven (7) feet above floor level. This requirement does not apply to elevators and stair enclosures attached to a rooftop common room; and
 - 4) The rooftop common room is architecturally integrated with the building design; and
 - b. The height of the rooftop common room shall not exceed 15 feet or the height of the story immediately below the rooftop common room, whichever is less; and
 - c. The area of the rooftop common room, measured to the outermost exterior element, shall not exceed 500 square feet or 10 percent of building footprint, whichever is less. The minimum floor area required by building code for elevators and associated equipment and/or stair enclosures shall be exempt from the maximum area calculation for the rooftop common room; and
 - d. The rooftop common room is set back from any building edge at a distance equal to the height of tallest point of the room above the roof deck; and
 - e. The applicant provides one (1) of the following public benefit items in addition to the rooftop common room:
 - 1) A landscaped and vegetated area, or an area designed and constructed as a green roof, equal to the square footage of the rooftop common room and showing the landscape plan requirements set forth in KZC 95.40(3), or
 - 2) A street-level public plaza equal to the square footage of the rooftop common room, or
 - 3) Public use of the rooftop common room, either as public access or as use of the rooftop common room as publicly accessible retail, restaurant, or similar space.
 - f. The Planning Official shall not approve or deny the addition of a rooftop common room pursuant to this subsection without first providing notice of the modification request to the owners and residents of each adjoining property and providing opportunity for comment.
- **115.120 Rooftop Appurtenances**
 - .817 Rooftop Appurtenances - HVAC equipment, mechanical or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that

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extend above the roofline of a building, but not including personal wireless service facilities or solar panels.

- 4. Allowable Height and Size – Rooftop Appurtenances
 - a. Any rooftop appurtenance may exceed the maximum height of structure by a maximum of four (4) feet if the area of all appurtenances and screening does not exceed 10 percent of the total area of the building footprint (see Plate 31). Elevators and equipment and/or stair enclosures allowed under subsection (4)(b) of this section shall be included in the area calculation towards the maximum 10 percent.
 - b. For stacked dwelling units and commercial buildings, rooftop appurtenances necessary to access rooftop amenities, such as elevators and associated equipment and/or stair enclosures, may extend above the maximum height of structure for the zone beyond the allowance in subsection (4)(a) of this section, provided:
 - 1) The elevator and associated equipment and/or stair enclosure height is the minimum necessary for rooftop access and does not exceed 15 feet above the maximum height of structure.
 - 4) Rooftop appurtenances necessary to access rooftop amenities, such as elevators and associated equipment and/or stair enclosures, proposed where the subject property is partially, or wholly, adjoining low-density residential zones may only be approved through the modification process in subsection (4)(c) of this section.
- 5. Optional Locations – As an option to placing appurtenances on the roof, appurtenances may be located in a parking structure

Palo Alto, CA

Notes

- Population: ~67,000

General Standards and Expectations (18.40)

- **18.04 Definitions**

- “Height” - (all districts other than the R-E and R-1 residence district) The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof, except that in the R-2 and RMD districts the height of a pitched or hipped roof shall be measured to the height of the peak or highest ridge line. In the R-E and R-1 single family residence districts, height shall be measured from the highest point of the structure’s roof, including wall parapets, to the grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

- **18.40.230 Rooftop Gardens**

- Where allowed under this Title, in order to qualify as usable open space, a rooftop garden shall meet the following standards:
 - (a) Permanent fixtures on the rooftop shall be placed so as not to exceed height limit for the applicable zoning district, except:
 - (i) Elevators, stairs and guardrails may exceed the height limit to allow for access to the rooftop useable open space. These fixtures shall be designed to the lowest height and size feasible in order to comply with applicable building codes.
 - (ii) Permanent fixtures associated with the useable open space, such as trellises, shade structures, furniture, and furnishings such as planters, lighting and heaters, may exceed the height limit by up to 12 feet.
 - (iii) For the height limit exceptions in (i) and (ii) above, all fixtures shall not intersect a plane measured at a forty-five degree angle from the edge of the building starting at the rooftop garden surface sloping upward and inward toward the center of the property.
 - (b) The rooftop garden shall be located on the third or higher story.
 - (c) The rooftop garden shall be accessible to all residents of dwelling units on the parcel, but not to commercial tenants of a residential mixed-use development.
 - (d) Structures or fixtures providing a means of access or egress (i.e., stairway, elevator) shall be located away from the building edge to the extent feasible to minimize visibility from the public right-of-way and adjacent buildings and privacy impacts.
 - (e) Any lighting shall be shielded from public views and have full cutoff fixtures that cast downward-facing light, or consist of low-level string lights; no up-lighting is permitted. Lights shall be dimmable to control glare and placed on timers to turn off after 10:00 p.m. Photometric diagrams must be submitted by

Rooftop Spaces

the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties.

- (f) At least 15% but no more than 25% of the rooftop shall be landscaped with raised beds for gardening, C.3 stormwater planters, or other landscaping. All required landscaped areas shall be equipped with automatic irrigation systems and be properly drained.
- (g) Rooftop equipment that emit noise and/or exhaust, including but not limited to vents, flues, generators, pumps, air conditioning compressors, and other protrusions through the roof, shall be directed away and screened from the useable open space areas.
- (h) Rooftop open space noise levels shall not exceed exterior residential noise level as defined by Section 9.10.030(a) of this code.
- (i) The use of sound amplifying equipment shall be prohibited. Signs shall be affixed adjacent to access elevators and stairs within the rooftop garden providing notice of this prohibition.

Asheville, NC

Notes

- Population: ~92,000

Definitions

- UDO 7.2.5 “*Building height* means the vertical distance from the ceiling of the highest occupied floor to the primary level of fire department access;
 - for the purposes of determining height in the central business district, height is the vertical distance measured from a single point beginning at the primary pedestrian entrance to the surface level of the highest occupied floor.”

Sec. 7-8-28. - Haywood Road Form District

- C. Outdoor amenity space.
 - 1.General. Where required, outdoor amenity space must be provided on the lot and must be available as unenclosed exterior space appropriately improved for pedestrian amenity, rooftop space, or for aesthetic appeal and cannot include areas used for vehicles, except for incidental service, maintenance or emergency actions only. Outdoor amenity space may be public or private.
 - 2.Standards.
 - a. Outdoor amenity space may be met in one contiguous open area or in multiple open areas on the lot; however, to receive credit, the area must be at least seven feet in width and length, and at least 40 percent of the required amenity space must be located in one contiguous open area.
 - b. Outdoor amenity space may be located at or above grade.
 - c. Outdoor amenity space may be roofed but cannot be permanently enclosed.
 - d. Outdoor amenity space cannot be parked or driven upon, except for emergency access and permitted temporary events.
 - e. In calculating the minimum outdoor amenity space requirement, the following listed facilities, and any similar facilities, may be included:
 - i.Ground-level facilities such as a swimming pool, playground, sport court, dog park, garden, community garden, park, green, pavilion, courtyard, seating area, outdoor dining area or plaza; and
 - ii.Upper-level facilities such as a shared or common balcony, rooftop deck or rooftop garden.
- G. Setback encroachments.
 - All buildings and structures must be located at or behind the required setbacks except as listed below. Unless specifically stated, no building or structure can extend into a required easement or public right-of-way.
 - d. Unenclosed patios, decks, balconies, stoops, porches, terraces or fire escapes may encroach into a side interior or rear setback, provided that such extension is at least six feet from the vertical plane of any lot line and bufferyard requirements, if any, are met
- H. Building height.

Rooftop Spaces

- 1. Building height is regulated in both number of stories and feet and is measured from the average grade to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof or to the highest point of roof surface of a flat roof, not including a maximum six-foot high parapet wall encroachment. In no case is a parapet allowed to exceed six feet in height above the roof deck.
- **I. Height encroachments.** Any height encroachment not listed below is prohibited.
 - 2. The following specified accessory structures, building and site features, and mechanical equipment may exceed the established height limit provided they do not exceed the maximum height by more than six feet:
 - a. Chimney, flue or vent stack;
 - b. Flagpole;
 - c. Vegetation associated with a rooftop garden or landscaping;
 - d. Skylights;
 - e. Parapet wall; and
 - f. Solar panels, wind turbines and rainwater collection systems.
 - 3. The following may exceed the established height limits provided they do not exceed the maximum building height by more than ten feet, are set back at least 15 feet from the edge of the roof on the primary facade and ten feet for other sides:
 - a. Elevator or stairway access to roof;
 - b. Rooftop shade structure;
 - c. Greenhouse; and
 - d. Mechanical equipment.

Charlotte, NC

Within Transit Oriented Development Ordinance, Rooftop structures are permitted as an accessory structure.

F. Flat Roof Features

- Accessory rooftop features of a flat roof, such as green roofs, rooftop decks, rooftop gardens, and stormwater management systems are permitted on any flat roof building.

Definition:

Outdoor Seating/Activity Area. An outdoor seating/activity area as an accessory use is located outside the permanent enclosed area, and is used for seating, for food and/or beverage consumption, and/or participatory activities. This includes, but is not limited to, areas such as patios, decks, rooftops, and open areas.

- 3. Outdoor Entertainment and Outdoor Seating/ Activity Area. If at any time between the hours of 11:00 p.m. and 8:00 a.m., food and/ or beverages are consumed in an outdoor seating/activity area or outdoor entertainment occurs, it shall meet the following:
 - a. The outdoor seating/activity area or outdoor entertainment shall be separated by a distance of at least 100 feet from the nearest property line of a vacant lot or a residential use when such vacant lot or residential use is located in a single family zoning district.
 - b. If the outdoor seating/activity area or outdoor entertainment is less than 100 feet from the nearest property line of a vacant lot or a residential use when such vacant lot or residential use is located in a single-family residential zoning district, then the area shall be separated by a Class A buffer, as described in Section 12.302 of this Ordinance, along all corresponding side and rear property lines.
 - c. Distances are measured from the closest edge of any outdoor seating/activity area or outdoor entertainment to the nearest property line of a vacant lot or a residential use when such vacant lot or residential use is located in a single-family residential zoning district.

AN ORDINANCE TO AMEND ARTICLE 11.4.10 (e): Amendment Process, Special Use Permit, Hearing OF THE ZONING ORDINANCE TO AMEND HEARING REQUIREMENTS FOR SPECIAL USE PERMITS; ARTICLES 9.4, 9.15, 9.17, 9.23, 9.24, 9.31, 9.32, 9.34, 9.36, 9.38, 9.41, 9.45, 9.56, 9.61: CONDITIONS FOR CERTAIN USES; ARTICLE 3.3.2-C: Appeals and Variances in MIL-O District; and ARTICLE 3.3.3-B: Appeals and Variances in LN-O District

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 11.4.10 (e): Amendment Process, Special Use Permit, Hearing of the **Zoning Ordinance** is hereby amended as follows:

e) Hearing

1) A Special Use Permit hearing will be conducted as a quasi-judicial hearing before the Town Board.

2) The applicant has the burden of producing competent, material, and substantial evidence establishing that:

i. The proposed special use will not materially endanger the public health or safety;

ii. The proposed special use will not substantially injure the value of adjoining property or it constitutes a public necessity;

iii. The proposed special use will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and any applicable small area plan;

iv. The proposed special use will comply with all of the lot, size, yard, and other standards which this ordinance applies to all uses permitted in the zoning district in which the property is located; and

v. The proposed special use will comply with all general and specific standards required by the appropriate section of this ordinance for the issuance of a special use permit for this use.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.3: Conditions for Certain Uses, Agricultural Industry in the Rural and Transitional District of the **Zoning Ordinance** is hereby amended as follows:

Agricultural Industry, limited to the production of commercial poultry or small livestock in enclosed buildings, according to the procedures of Section 11.4.10.

The Town Board shall issue a Special Use Permit for the production of commercial poultry or small livestock in enclosed buildings in the Rural and Transitional District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1 — That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~.2 — That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~.1 .3~~ That no part of the proposed use will be located or operated so as to emit dust, noise, fumes, or odors in concentrations or amounts that would constitute a nuisance to persons of ordinary sensitivities on nearby properties; and

~~.2 .4~~ That there will be a separation of no less than 250 feet between structures housing the agricultural industry and any property located in a residential district or developed for residential or mixed-use purposes; and

~~.3 .5~~ That the proposed use shall be located on a lot of no less than ten acres.

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.4: Conditions for Certain Uses, Airports of the **Zoning Ordinance** is hereby amended as follows:

Airports are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1 — That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~.1 .2 — That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~.1 .3~~ That the proposed use will not constitute a nuisance to properties located in residential or mixed-use districts or developed for residential purposes with respect to noise, dust, fumes, light, vibration, or traffic; and

~~.2 .4~~ That the proposed use will comply with all applicable Federal Aviation Administration regulations.

Section 4. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.15: Conditions for Certain Uses, Essential Services 3 of the **Zoning Ordinance** is hereby amended as follows:

Essential Services, Class 3, are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

1. ~~3.~~ That the proposed use will not constitute a nuisance to properties located in residential districts or developed for residential or institutional purposes with respect to noise, dust, odors, light, vibration, or traffic; and

2. ~~4.~~ That area of active use will be enclosed by a fence, not easily climbable, at least six feet in height, and the fence must be located at least 20 feet from the public street right-of-way and 100 feet from abutting property lines; and

3. ~~5.~~ That a minimum separation of 100 feet, fully vegetated, will be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and

4. ~~6.~~ That the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall/fence.

Section 5. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.17: Conditions for Certain Uses, Hazardous or infectious material incineration, handling, or storage of the **Zoning Ordinance** is hereby amended as follows:

Hazardous or infectious materials, storage and treatment facilities are permitted in the Special Purpose (SP) 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

TA21-11: SUP Hearing Requirements, Watershed Minor and Major Variance Definition and Findings of Facts

~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

1. ~~3.~~ That the use complies with the Federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §6901 et seq) and the North Carolina Solid Waste Management Act, as amended, (Article 9, G.S. 130A-290 et seq) for design, siting, and monitoring, and for materials to be stored or treated; and

2. ~~4.~~ That all storage, treatment, and loading facilities handling hazardous or infectious materials will be located at least 200 feet from any exterior property line and at least 2,000 feet from any lot zoned or used for residential, institutional, or office purposes; and

3. ~~5.~~ That the use will be entirely fenced with fencing material to a height of at least 7 feet; and the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence; and

4. ~~6.~~ That vehicular access to the operation will be provided only by way of a designated thoroughfare; and

5. ~~7.~~ That all surface water and groundwater on the property shall be protected so as to minimize to the greatest extent possible the probability of contamination by hazardous materials; and

6. ~~8.~~ That the site will be served by a publicly operated sewage disposal system and all sanitary sewer and storm water management systems on the property will be protected so as to minimize to the greatest extent possible the probability of contamination by hazardous or infectious materials; and

7. ~~9.~~ That no structures or operations of any kind on the site shall be located within 200 feet of any adjacent lot.

Section 6. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.23: Conditions for Certain Uses, Hazardous or infectious material incineration, handling, or storage of the **Zoning Ordinance** is hereby amended as follows:

Off-Site LCID and C&D Landfills are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes the conditions below.

1. That the Site will operate in compliance with the rules according to the NCDENR for C&D and LCID landfills, as amended.

~~2. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~3. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

2. 4. That the comprehensive site plan addresses each of the environmental and development standards below:

a. A landfill which would be larger than 10 acres shall be accessed from a major or minor thoroughfare or from a street built to Industrial Collector Street standards that connects directly to a major or minor thoroughfare. Landfills 10 acres or less must directly connect to a major or minor thoroughfare, or to an Industrial Collector Street or Industrial Local Street where available. However, if such thoroughfares or streets are not reasonable available, the Board may nevertheless issue a special use permit upon finding that the use for which the permit is granted would not likely cause any injurious effect on the property adjacent to the access.

b. That the proposed or existing use will be in compliance with the rules and regulations as established by Traffic Impact Analysis (TIA) Article 14.

c. Neither clearing, grading, land disturbing activities nor any portion of a C&D or LCID landfill may be located within 100 feet of any exterior property line. Further, the buffer requirements for the site are required per the state permitting criteria. The requirements stated below take precedence over any and all modifications made by the state unless the state standards become more restrictive.

- 500-foot buffer from existing residential water supply wells to fill area.
- 200-foot buffer from adjacent property to fill area.
- No fill in designated wetlands or the FEMA and/or Community Special Flood Hazard Areas.

- 50-foot buffer from delineated streams.
- 50-foot buffer from road right-of-way to fill area (non state requirement)

d. Driveway access to the facility must be paved for a distance of at least 100' from the public street.

e. Vehicular and pedestrian access to the site must be controlled; the site must be closed and secured during hours when filling activities are not under way. A non-climbable fence, at

least 6' high, shall be installed around the landfill and all of its operations as a safety device. These fences must be constructed of wire mesh with openings not to exceed 2 inches by 4 inches or equivalent and must be placed on the interior side of screening/buffering devices.

f. All driveways which serve the site must be wide enough to accommodate two-way traffic for a distance of at least 100 feet from the public street so that no traffic waiting to enter the site will be backed up on any public right-of-way.

3. 5.—That the landfill operator will be responsible for removal of any and all debris, dirt, or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis. Failure to comply constitutes a violation of this ordinance and may constitute grounds for revocation of the operating permit.

4. 6. That use of the site for any purpose shall be limited to the hours of 7:00 a.m. until 6:00 p.m. Monday through Saturday, if the site adjoins or is across the street from property located in a residential district.

5. 7. That a timetable has been submitted with the application indicating the development phases and the projected life expectancy of the landfill.

6. 8.—That a reclamation plan is provided that shows how the site will be reclaimed upon the closing of the landfill. The reclamation plan shall state the proposed method of conservatorship and perpetual maintenance or use. It shall demonstrate that the site, when closed, will pose no threat to public safety; that the finished contours and groundcover will reestablish a compatible appearance with surrounding lands and buildings; and that the method of maintenance or use will cause no future environmental degradation.

7. 9. An existing LCID landfill shall not be required to be brought into compliance with the provisions of this ordinance provided:

- a. The landfill has been continuously operating since 1990 and was not within the zoning jurisdiction of the Town of Huntersville in 1991;
- b. The landfill has a valid LCID or demolition landfill permit and/or obtains any renewals of the LCID or demolition landfill permit required by the State of North Carolina and/or Mecklenburg County;
- c. The landfill has a closure plan approved by the State of North Carolina and/or Mecklenburg County; and
- d. In no event shall the landfill operate under a demolition landfill permit later than December 4, 2016 and further provided that on the earlier of the final date permitted for operation of the landfill or the date the landfill permanently ceases operation, the owner and/or operator of the landfill shall immediately commence and continuously pursue to completion closure of the landfill according to the provisions of the then current closure plan

approved by the State of North Carolina and/or Mecklenburg County. Failure to complete closure according to such approved plan shall be a violation of this ordinance enforceable by all remedies and penalties available to the Town.

e. In no event shall a landfill operate under an LCID landfill permit later than March 3, 2028 and further provided that on the earlier of the final date permitted for operation of the landfill or the date the landfill permanently ceases operation, the owner and/or operator of the landfill shall immediately commence and continuously pursue to completion closure of the landfill according to the provisions of the then current closure plan approved by the State of North Carolina and/or Mecklenburg County. Failure to complete closure according to such approved plan shall be a violation of this ordinance enforceable by all remedies and penalties available to the Town. Recycling from an LCID landfill shall be considered an LCID activity and shall not be considered an expansion for purposes of determining nonconformance.

f. A landfill operating under an LCID landfill permit as described in e) shall meet the following requirements to the extent reasonably practicable without violating County, State, or Federal regulations:

(1) In the event that, after September 5, 2017, a driveway is permitted to replace an existing permitted driveway for the facility, the new driveway shall be paved for a distance of 100 feet from the public right of way, or, if the Planning Director determines that 100 feet of pavement is not reasonable due to topographic conditions, for such lesser distance as is determined by the Planning Director;

(2) Landscaping along street frontages to the extent commercially reasonable; and

(3) The landfill operator will be responsible for removal of any and all debris, dirt, or other materials which fall from trucks entering or leaving the landfill from all adjoining streets on at least a weekly basis, or more as needed.

8. 10.—Any existing C&D landfill shall be permitted to continue operation in the zone in which it is located provided the landfill has an unexpired special use permit. Any expansion beyond the property boundary of an existing C&D landfill as approved on November 11, 2005 must be located in the SP district with a special use permit in accordance with the provisions of this Section.

Section 7. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.24: Conditions for Certain Uses, Environmentally Sensitive Uses not Expressly Permitted of the **Zoning Ordinance** is hereby amended as follows:

Uses not expressly named in this ordinance, but which may constitute a greater than average impact on the environment or diminish the use and enjoyment of nearby property by generation of noise, smoke, fumes, odors, glare, commercial vehicle traffic, or similar nuisances, are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~1.-3.~~ That a comprehensive site plan addresses the development standards below:

a. Adjoining properties and streets are protected from adverse impacts of the use and buildings on the proposed site by the locations of buffers and/or screens;

b. Any areas of the site which may present a danger to residents, their children, pets, or livestock shall be fenced with non-climbable fencing material to a height sufficient to avert said danger; fencing shall be installed on the interior of any buffering or screening;

c. Vehicular access to the proposed use will be provided by way of a road sufficiently sized to accommodate the generated trips and the vehicles typically associated with the use; a use considered under the standards of this special use permit process shall not be accessed through a residential neighborhood nor from a Residential Local street.

Section 8. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.31: Conditions for Certain Uses, Quarries of the **Zoning Ordinance** is hereby amended as follows:

Quarries are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~1.~~ ~~3.~~ That the quarry and all its buildings, pits, and processing equipment will be separated by a 100-foot buffer from the street and from any adjacent property that is located in a residential district or developed for residential or institutional use; and

- ~~2. 4.~~ That the quarry and all its buildings, pits, and processing equipment will be provided with an opaque screen to shield the view from the public street and from all abutting properties, regardless of use; and
- ~~3. 5.~~ That a non-climbable fence, at least 6 feet high, will be installed around the quarry and all of its operations as a safety device. These fences must be constructed of wire mesh with openings not to exceed 2 inches by 4 inches or equivalent and must be placed on the interior side of screening and/or buffering devices; and
- ~~4. 6.~~ Vehicle access to the quarry shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare; and
- ~~5. 7.~~ That any crushing of rock or processing of material must be done in such a way as to minimize the amount of air-borne dust created; and
- ~~6. 8.~~ That the minimum distances of quarry operations from adjacent properties shall be:
- a. for any quarry building 100 feet
 - b. for any crushing of rock, processing of stone, gravel or other material 300 feet
 - c. for any blasting 500 feet
- ~~7. 9.~~ And that upon termination of quarrying operation, the site must be reclaimed in accordance with NC General Statutes.

Section 9. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.32: Conditions for Certain Uses, Raceways and Drag Strips of the **Zoning Ordinance** is hereby amended as follows:

Raceways and Drag strips are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- ~~.1 — That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~
- ~~.2 — That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~
- ~~.1 .3~~ That the use will be located on a lot of at least 50 acres; and
- ~~.2 .4~~ That vehicular access to the use will be provided only by way of a major or minor thoroughfare; and

~~.3~~ ~~5~~ That no direct beams of light from outdoor lighting fixtures, signs, or vehicles maneuvering on the site will shine into any abutting property located in a residential district; and

~~.4~~ ~~6~~ That a minimum separation of 100 feet, fully vegetated, shall be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and

~~.5~~ ~~7~~ That the site shall be screened from the street(s) by a masonry wall or a solid wood fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence; and

~~.6~~ ~~8~~ That hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

Section 10. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.34: Conditions for Certain Uses, Sanitary Landfill of the **Zoning Ordinance** is hereby amended as follows:

Sanitary Landfills are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1~~ That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and

~~.2~~ That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and

~~.1~~ ~~3~~ That the comprehensive site plan addresses each of the development standards below:

(a) The use shall be located on a lot of at least 50 acres;

(b) All land filling operations and off-street parking and service areas will be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from the view from a public street;

(c) No structure or land filling operation will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential district or developed for residential or mixed use;

(d) Vehicle access to the proposed use shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare; and

.2 .4 That the plan for development and operation of the site addresses the environmental standards below:

- (a) The siting and design of the facility will comply with the "Siting and Design Requirements for Disposal Sites" of the North Carolina Solid Waste Management Rules (Title 15A NCAC Chapter 13B) in effect at the time of review of the application;
- (b) Monitoring of surface water and groundwater will be conducted in accordance with the State of North Carolina permit and monitoring documents developed pursuant to the State of North Carolina Solid Waste Management Rules;
- (c) The facility complies with the Mecklenburg County Department of Environmental Protection's policy concerning Actual and Suspected Contaminants of Mecklenburg County Surface and Groundwater; and

.3 .5 That there is a general timetable indicating the development phases and projected life expectancy of the landfill; and

.4 .6 That there is a detailed plan for the re-use of the property, after landfill operations cease, that is not in conflict with the objectives of the most detailed plan approved for the area; and

.5 .7 That the plan for close-out of the landfill includes the creation of an escrowed fund to finance close-out, with contributions to the fund escrowed annually, beginning at the time facility development begins.

Section 11. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.36: Conditions for Certain Uses, Solid Waste Incineration of the Zoning Ordinance is hereby amended as follows:

Solid Waste Incineration, materials that are neither hazardous nor infectious, is permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~

~~.2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

.1 .3 That the incineration unit(s) will be constructed and operated in compliance with environmental regulations, both current and future, as annotated in the United States Code of Federal Regulations, particularly 40 CFR § 63.988, which deals with environmental regulations,

as amended by the State of North Carolina and Mecklenburg County Department of Environmental Protection; and

~~.2~~ ~~4~~ That all storage, handling, incineration, and loading facilities will be located at least 200 feet from any exterior property line and at least 1,250 feet from any lot located in a residential or mixed use district or developed for residential, institutional, or mixed use; and

~~.3~~ ~~5~~ That structures, off-street parking and service areas will be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from the view from all public streets; and

~~.4~~ ~~6~~ That active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer; and

~~.5~~ ~~7~~ That vehicular access to the operation will be provided only by way of a designated thoroughfare; and

~~.6~~ ~~8~~ That all surface water and groundwater on the property shall be protected so as to minimize to the greatest extent possible the potential for contamination; and

~~.7~~ ~~9~~ That the site will be served by a publicly operated sewage disposal system and all sanitary sewer and storm water management systems on the property will be protected so as to minimize to the greatest extent possible the potential for contamination.

Section 12. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.38: Conditions for Certain Uses, Transfer Station for Organic and Inorganic Waste Products of the **Zoning Ordinance** is hereby amended as follows:

Transfer Stations are permitted in the SP 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 SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

~~.1~~ ~~That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby the property; and~~

~~.2~~ ~~That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~

~~.1~~ ~~3~~ That the comprehensive site plan addresses the development standards below:

(a) The active use areas of the site shall be separated by a 100-foot buffer from all adjacent properties and shielded by an opaque screen from all public streets; and

- (b) That active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer and screen; and
- (c) No active area will be located within 100 feet of any property line nor within 200 feet of abutting property located in a residential district or developed for residential, institutional, or mixed use; and
- (d) Vehicular access to the proposed use shall be provided by way of a major or minor thoroughfare, or an Industrial Street directly connecting to a thoroughfare.

Section 13. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.41: Conditions for Certain Uses, Correctional Facilities of the Zoning Ordinance is hereby amended as follows:

Correctional Facilities are permitted in the SP 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 a correctional institution in the SP District if, but not unless, the evidence presented at the Special Use Permit hearing establishes:

- .1 That the proposed use will comply with all standards which this ordinance applies to uses in the SP Districts; and
- ~~.2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~
- ~~.3 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and~~
- .2 .4 That the principal structure and any accessory use or structure (excluding property boundary fencing) will be located at least 500 feet from any property located in a residential district or mixed-use district; and
- .3 .5 That property boundary fencing shall not employ barbed wire, razor wire, electrical fencing, or similar materials where abutting property located in a residential district or mixed-use district; and
- .4 .6 That security fencing will be provided an opaque screen on the exterior of fencing wherever it is adjacent to a street or property in a residential or mixed-use district; and
- .5 .7 That all lighting for the facility will be oriented so that direct beams of light shine away from all abutting properties and into the correctional facility property; and
- .6 .8 That the use will be located on a lot of at least 10 acres if the facility has beds for more than 100 inmates; and

~~.7.9~~ That the use will be located on a lot of at least five acres if the facility has beds for 100 or fewer inmates.

Section 14. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.45: Conditions for Certain Uses, Hotels and Motels of the **Zoning Ordinance** is hereby amended as follows:

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 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 special use permit subject to the following standards as well as all other standards applicable for special use permits:

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.

~~c. That the proposed use will not endanger the public health and safety, not substantially reduce the value of nearby property.~~

~~d. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area.~~

c. e- That vehicular access to the use 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 Special Use Permit, and the requirements of Article 9.45.2

Section 15. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.56: Conditions for Certain Uses, Crematoriums, accessory of the **Zoning Ordinance** is hereby amended as follows:

Crematoriums are permitted in the HC 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 use in the HC District if, but not unless the evidence presented at the Special use Permit hearing establishes:

1. Are accessory to an established Funeral Home.
2. That the proposed use will not ~~endanger the public health and safety, substantially reduce the value of nearby property, nor~~ emit noticeable odors; and
- ~~3. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and~~
3. 4. That the proposed use will be constructed and operated in compliance with all applicable environmental regulations; and
4. 5. That all storage, handling, incineration, and loading facilities will be located at least 50 feet from any exterior property line; and
5. 6. The number of cremations shall be below that requiring an air quality permit by Mecklenburg County per current calendar year.
6. 7. That active use portions of the site will be entirely enclosed in the principal structure.

Section 16. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 9.61: Conditions for Certain Uses, Par 3 and/or Golf Driving Range of the **Zoning Ordinance** is hereby amended as follows:

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. That the proposed use will not endanger the public health and safety, substantially reduce the value of nearby property; and~~
1. 2. 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. 3.~~ Vehicular access to the use will be provided only by way of a Boulevard or Major Thoroughfare.

~~3. 4.~~ A par 3 golf course or driving range must be located on a property at least 20 acres in size.

~~4. 5.~~ No multi-level buildings or tee boxes are permitted.

~~5. 6.~~ Hours of operation shall be no earlier than 6 am and no later than 11 pm.

~~6. 7.~~ 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. 8.~~ 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. 9.~~ 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 17. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 3.3.2-C: Appeals and Variances in MIL-O District of the **Zoning Ordinance** is hereby amended as follows:

.3 A petition for variance to the standards of the Mountain Island Lake Watershed Overlay District shall comply with the procedures and standards of Section 11.3 of these regulations, with the following exceptions.

a) In addition to the notification requirements of Section 11.3, the Watershed Administrator shall also notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

b) Major and Minor Variances are differentiated by definition.

Minor variances shall include ~~petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of 10% or less.~~ **a variance from the minimum statewide watershed protection rules that results in the relaxation of up to 10 percent of any vegetated setback, density, or minimum lot size requirement applicable to low density development, or the relaxation of up to five percent of any vegetated setback, density, or minimum lot size requirement applicable to high density development. For variances to a vegetated setback requirement, the percent variation shall be calculated using the foot print of built-upon area proposed to encroach within the vegetated setback divided by the total area of vegetated setback within the project.**

Major variances means ~~a~~ **a** variance that is not a "minor variance" as that term is defined in 15A NCAC 02B .0621 of the North Carolina Administrative Code. ~~from the minimum statewide water supply watershed protection criteria that result in any one or more of the following:~~

~~Petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of more than 10%; and~~

~~Petitions for variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water system; and~~

~~Petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high density option.~~

c) Major and Minor Variances are differentiated as to procedures and standards.

Per 15A NCAC 02B.0623(5) of the North Carolina Administrative Code the Watershed Review Board shall make the below findings of fact for granting minor and major variance petitions:

a) there are difficulties or hardships that prevent compliance with the ordinance;

(b) the variance is in accordance with the general purpose and intent of the local watershed protection ordinance; and

(c) granting the variance, the project will ensure equal or better protection of waters of the State than the requirements of Rules .0621-.0624 of 15A NCAC 02B.0623(5) of the North Carolina Administrative Code and that the stormwater controls will function in perpetuity.

Minor variances shall comply with the procedures and standards of Section 11.3 of these regulations. An annual report of minor variances granted shall be submitted by the Watershed Administrator for each calendar year to the Division of Water Quality on or before January 1st of the following year and provide a description of each project receiving a variance and the reasons for granting the variance.

Major variances shall comply with the procedures and standards of Section 11.3 except that:

A decision by the Watershed Review Board to deny a major variance shall be final. Appeal shall be to a court of competent jurisdiction as provided in Section 11.3.

A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

Section 18. Be it ordained by the Board of Commissioners of the Town of Huntersville that ARTICLE 3.3.3-B: Appeals and Variances in LN-O District and ARTICLE 3. of the **Zoning Ordinance** is hereby amended as follows:

.3 A petition for variance to the standards of the Lake Norman Watershed Overlay District shall comply with the procedures and standards of Section 11.3 of these regulations, with the following exceptions.

- a) In addition to the notification requirements of Section 11.3, the Watershed Administrator shall also notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
- b) Major and Minor Variances are differentiated by definition.

~~Minor variances shall include petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of 10% or less.~~ **a variance from the minimum statewide watershed protection rules that results in the relaxation of up to 10 percent of any vegetated setback, density, or minimum lot size requirement applicable to low density development, or the relaxation of up to five percent of any vegetated setback, density, or minimum lot size requirement applicable to high density development. For variances to a vegetated setback requirement, the percent variation shall be calculated using the foot print of built-upon area proposed to encroach within the vegetated setback divided by the total area of vegetated setback within the project.**

Major variances means a variance that is not a "minor variance" as that term is defined in 15A NCAC 02B .0621 of the North Carolina Administrative Code. ~~from the minimum statewide water supply watershed protection criteria that result in any one or more of the following:~~

~~Petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of more than 10%; and~~

~~Petitions for variation in the design, maintenance, or operation requirements of a wet detention pond or other approved storm water system; and~~

~~Petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high density option.~~

- c) Major and Minor Variances are differentiated as to procedures and standards.

Per 15A NCAC 02B.0623(5) of the North Carolina Administrative Code the Watershed Review Board shall make the below findings of fact for granting minor and major variance petitions:

a) there are difficulties or hardships that prevent compliance with the ordinance;

(b) the variance is in accordance with the general purpose and intent of the local watershed protection ordinance; and

(c) granting the variance, the project will ensure equal or better protection of waters of the State than the requirements of Rules .0621-.0624 of 15A NCAC 02B.0623(5) of the North Carolina Administrative Code and that the stormwater controls will function in perpetuity.

Minor variances shall comply with the procedures and standards of Section 11.3 of these regulations. An annual report of minor variances granted shall be submitted by the Watershed Administrator for each calendar year to the Division of Water Quality on or before January 1st of the following year and provide a description of each project receiving a variance and the reasons for granting the variance.

Major variances shall comply with the procedures and standards of Section 11.3 except that:

A decision by the Watershed Review Board to deny a major variance shall be final. Appeal shall be to a court of competent jurisdiction as provided in Section 11.3.

A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

Section #. That this ordinance shall become effective **TBD**

HUNTERSVILLE ORDINANCE ADVISORY BOARD: **October 7, 2021**

PUBLIC HEARING DATE: **Tentative**

PLANNING BOARD MEETING: **Tentative**

TOWN BOARD DECISION: **Tentative**

**AN ORDINANCE TO AMEND ARTICLE 8.25.4: S.W.I.M. Stream Buffers, Buffer Delineation;
ARTICLES 8.17.12(a)(2) and 8.17.12 (b)(1): WATER QUALITY, PERFORMANCE CRITERIA,
PERFORMANCE CRITERIA FOR LOW DENSITY PROJECTS; PERFORMANCE CRITERIA FOR HIGH
DENSITY PROJECTS; AND, ARTICLE 12.2.3: DEFINITIONS, WATERSHED DEFINITIONS**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 8.25.4: S.W.I.M. Stream Buffers, Buffer Delineation of the **Zoning Ordinance** is hereby amended as follows:

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville, shall be delineated by: **1)** Mecklenburg County through its geographic information system (GIS) ~~using the most current digital elevation model (DEM) of no greater than 10-foot cells;~~ **or, 2)** **if seeking a land development permit or when a property owner believes that the GIS buffer delineations inaccurately depict buffer requirements, an on-site stream delineation prepared by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology and which is approved by the Town.** ~~This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.~~

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Articles **8.17.12(a)(2); 8.17.12(b)(1):** Water Quality, Performance Criteria, Performance Criteria for Low Density Projects; Performance Criteria for High Density Projects of the **Zoning Ordinance** is hereby amended as follows:

Article 8.17.12(a)(2)

Built-Upon Area Setbacks. All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). **delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.** ~~An exception to this requirement shall be granted if one or more of the following is satisfied and documented:~~

~~(a) Based on an on-site determination by the Storm Water Administrator, surface waters are not present on the site. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Storm Water Administrator. Upon request, the Storm Water Administrator shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this ordinance if this on-site determination shows that they fall into one of the following categories:~~

~~–Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access.~~

~~–Manmade ponds and lakes located outside natural drainage ways.~~

~~–Ephemeral (storm water) streams~~

Article 8.17.12(b)(1)

Built-Upon Area Setbacks. All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be ~~deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).~~ **delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.** An exception to this requirement shall be granted if one or more of the following is satisfied and documented:

~~(a) Based on an on-site determination by the Storm Water Administrator, surface waters are not present on the site. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Storm Water Administrator. Upon request, the Storm Water Administrator shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this ordinance if this on-site determination shows that they fall into one of the following categories:~~

~~–Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access.~~

~~–Manmade ponds and lakes located outside natural drainage ways.~~

~~–Ephemeral (storm water) streams~~

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12.2.3: Definitions, Watershed Definitions of the **Zoning Ordinance** is hereby amended as follows:

Perennial Stream. A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. ~~They are identified on United States Geological Survey Quadrangle Maps by solid blue lines.~~ **They shall be delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.**

Section 4. That this ordinance shall become effective immediately.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: October 7, 2021 - Tentative

PUBLIC HEARING DATE: October 4, 2021 - Tentative

PLANNING BOARD MEETING: October 26, 2021 - Tentative

TOWN BOARD DECISION: November 15, 2021 - Tentative

**AN ORDINANCE TO AMEND SECTIONS 2.100: DEFINITIONS, SECTION 6.300: SKETCH PLAN
REQUIRED FOR MAJOR SUBDIVISIONS, SECTION 6.310: SKETCH PLAN NOT REQUIRED FOR
MINOR SUBDIVISIONS, SECTION 6.520: EXCEPTIONS: WHEN PRELIMINARY PLAN NOT
REQUIRED TO REMOVE RECORDATION OF STREET RIGHT OF WAY OR IMPROVEMENTS FROM
MAJOR SUBDIVISION CATEGORY AND CLARIFY REQUIREMENTS FOR FARMHOUSE CLUSTER
PLAN**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 2.100: Definitions of the **Subdivision Ordinance** is hereby amended as follows:

Subdivision, Major.

A subdivision not otherwise exempt from these regulations that involves any of the following:

1. The creation of any new public street, but does not include the public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way. ~~or street right of way, or improvements to an existing street.~~
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. ~~The extension of any needed right of way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.~~
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private waste water treatment plant or a private water supply system for more than one lot or building site.

Subdivision, Minor.

A subdivision that is not otherwise exempt from the provisions of this ordinance and that **is not a "Major Subdivision" as that term is defined in this Ordinance.** ~~does not involve any of the following:~~

1. ~~The creation of any new public street or street right of way, or improvements to an existing street.~~
2. ~~A future public school, park, greenway, or open space site shown in any adopted plan or policy document.~~
3. ~~The extension of any needed right of way or easement for the water or sewer system operated by Charlotte-Mecklenburg Utility Department.~~
4. ~~The installation of drainage improvements through one or more lots to serve one or more other lots.~~
5. ~~The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.~~

For purposes of these regulations, Farmhouse Cluster developments are considered a minor subdivision and require Town Board approval. **Farmhouse Cluster developments do not require a typical Sketch Plan but shall demonstrate compliance with Zoning Ordinance requirements by including the following information: an "Existing Features (Site Analysis) Plan" as detailed in Section 6.300 (1)(1-14), (2), and (3) of this Ordinance and a Preliminary Plan as detailed in Section 6.400 of this Ordinance.**

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 6.300: Sketch Plan Required for Major Subdivisions of the **Subdivision Ordinance** is hereby amended as follows:

14. an "Existing Features (Site Analysis) Plan" shall be submitted as part of the sketch plan application **and for Farmhouse Cluster developments** in order to determine significant features to be preserved. It is recommended a pre-application meeting with the administrator be held to review the Existing Features Plan prior to submission of the sketch plan. The Existing Features (Site Analysis) Plan analyzes each site's special features, as they form the basis of the design process for open space lands, building locations, street alignments, and lot lines. Detailed requirements for Existing Features Plans at the minimum must include:

(a) the location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future);

(b) the location of significant features such as woodlands, tree lines, specimen and heritage trees, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways; existing structures, cemeteries, roads, tracks and trails; significant wildlife habitat; prime agricultural farmland; historic, archeological and cultural features listed (or eligible to be listed) on national, state or county registers or inventories; and aquifers and their recharge areas;

(c) the location of existing or planned utility easements (above and below ground) to include, but not limited to power/transmission, water, sewer, gas, phone, and cable;

(d) a topographical map showing original contours at intervals of not less than four feet and existing tree lines;

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 6.310: Sketch Plan Not Required for Minor Subdivisions of the **Subdivision Ordinance** is hereby amended as follows:

6.310 SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS

A sketch plan shall not be required for a Minor Subdivision, **except for Section 6.300(1)(14) and Section 6.300(3), which are required for Farmhouse Cluster developments.**

Section 4. Be it ordained by the Board of Commissioners of the Town of Huntersville that Section 6.520: Exceptions, When Preliminary Plan Not Required of the **Subdivision Ordinance** is hereby amended as follows:

The required preliminary plan may be waived by the Planning Director or Designee for subdivisions defined as Minor Subdivisions or divisions of land qualifying for Expedited Subdivision Review in Section 2.100 of these regulations provided:

1. A plat of the tract being subdivided, accompanied by two (2) applications signed by the owner or his duly authorized agent has been filed with the Planning Director or Designee, and the required fee submitted; and
2. The subdivider, has provided topographic information to determine flood elevations whenever the property proposed to be subdivided, or re-subdivided, is traversed by or adjacent to a known watercourse.

The required preliminary plan may also be waived by the Planning Director for those subdivisions, including Limited Subdivisions, which do not involve the dedication of a new street, ~~improvement to or right of way for an existing street~~, or site designated for a future public facility.

However, a final plat must be prepared and recorded as provided in Section 6.600.

Section #. That this ordinance shall become effective **TBD**

HUNTERSVILLE ORDINANCE ADVISORY BOARD: **October 7, 2021**

PUBLIC HEARING DATE: **Tentative**

PLANNING BOARD MEETING: **Tentative**

TOWN BOARD DECISION: **Tentative**