



**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.