



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

A. Call to Order

Attendance: M. Jones, T. Taylor, L. Munger, K. Jones, J. Henson, S. Moore, F. Gammon, T. Finlay (arrived at 3:43 p.m.), and B. Skelly

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

A. Adoption of September 2, 2021 Minutes (Attachment 1)

S. Moore made a Motion to Approve the September 2, 2021 Minutes. J. Henson seconded the motion. The motion passed (8-0).

B. Decision on amending the agenda to include item 5 under D. Other Business.

L. Munger made a Motion to Approve amending the agenda to include Item 5 – Discussion and possible recommendation on amendment to multiple ordinances to comply with SB 300, decriminalization of certain ordinances. S. Moore seconded the motion. The motion passed (8-0).

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

D. 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).

J. Simoneau, Planning Director reviewed that a project proposed for Downtown Huntersville has proposed a design that would include a rooftop amenity for its residents. Staff determined a text amendment was reasonable to allow this type of feature within the Town. Staff reviewed the current ordinance Article 8.7 – height limitation and the research completed on surrounding municipalities relative to what is permitted and what is restricted such as ensuring privacy for adjacent neighbors, lighting, noise, size and height, and access standards.

K. Jones asked Staff if we know what the applicant in Downtown Huntersville is proposing to use the space for, what size is proposed and where it would be located. Staff responded it would be for resident use only, located on the Northeast corner nearest Discovery Place Kids and the size would be limited by building code which Staff understands may be a maximum of 750 square feet. She commented she would like to see staff focus on where they are allowed, lighting and noise provisions.

F. Gammon commented that he has seen many of these in other locations and they are an attractive amenity, he asked if we know what the applicant will use the space for and how the setbacks are calculated with the additional height. Staff commented that it will be for the residents to go sit outside, there is a proposed pergola to create some shade and if the building meets setback requirements, then it would qualify there would not be additional setback requirements.

T. Taylor commented that the building code has additional requirements when a rooftop area exceeds 10% of the total area which may be what would limit the applicant to 750 square feet. He is not opposed to rooftop amenities and would recommend focusing on what the use of the space is because this could be something they would quickly want to turn into a bar and that would create noise and light pollution concerns. Staff commented that our position is that commercial type uses would need to comply with the building height requirements as they exist now and this ordinance would address amenity uses only.

K. Jones commented that she is familiar with a rooftop space that works as a clubhouse type amenity for residents. It can be reserved or rented by the residents and unless there are specific rules regarding the noise and use it cannot be controlled. Staff thanked her for her feedback and said that will be useful in formulating the ordinance.

L. Munger asked where Staff would propose adding this amendment to the ordinance, if Staff considered applying this to residential and commercial zoning, and residential buildings that face a greenway. Staff commented that the amendment will be word smithed and the ordinance reviewed to determine all the references needed in the ordinance. The height will be measured from the street, not the greenway.

M. Jones asked if safety needs to be addressed relative to preventing a falling risk or objects going over the side and potential risks below. Staff stated that in their research they did notice setbacks from the building and all buildings are allowed to have balconies so there is always going to be a potential risk of something being thrown or falling. T. Taylor commented that the building code will require a 42-inch railing.

S. Moore recommended incentivizing this option as being able to count towards open space requirements for the developer to get them to think outside the box.

F. Gammon agreed with S. Moore's comment and suggested that it be dependent on what the rooftop amenity is being used for when considering counting it as open space.

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).

L. Speight, Planner II reviewed the proposed amendments which are being removed where duplicative and added to be consistent. No amendments represent new standards which must be met by the applicant, only an amendment to where you may find these standards within the ordinance. The second portion of the amendment related to major and minor variances to ensure that the ordinances are consistent with the North Carolina Administrative Code.

L. Munger confirmed that this amendment is housekeeping to keep us in compliance and not creating any substantive changes. E. Sloop, Town Attorney confirmed she worked with staff on all of these proposed amendments, and they are all compliance related.

M. Jones asked E. Sloop to state on the record that in her legal opinion these amendments are in compliance with special use permits statute case law and constitutional limits. E. Sloop commented that she drafted the edits and she would not do so if they were not in compliance with state law.

L. Munger made a Motion to Approve TA21-11 as presented by staff. T. Finlay seconded the motion. The motion passed unanimously (9-0).

3. Recommendation on revised language for TA21-08, an amendment to clarify S.W.I.M. Buffer Delineation methods (Attachment 5)

L. Speight, Planner II explained that the Board is hearing this amendment request again because there are additional articles that are being added to the text amendment. Article 8.17.12.(a)(2) and Article 8.17.12 (b)(1) and the definitions. These articles reference the method for delineation which is why they are being included in the proposed amendment.

M. Jones asked if the statement “methodology approved by the Town” does not currently include the Army Corps of Engineers and/or N.C. Division of Water Quality and expressed concerns with the clarity of the language. Staff confirmed that is not currently what we require. L. Munger recommended editing the wording to state, “methodology which has been approved by the Town.” E. Sloop commented that in her opinion it would work. J. Simoneau confirmed staff would be okay with that. M. Jones agreed that would read better.

L. Munger made a Motion to Approve TA21-08 with the noted amendments to the ordinance. B. Skelly seconded the motion. The motion was approved (8-1) with F. Gammon opposed.

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).

L. Speight, Planner II discussed that there are two components to this amendment request. The first is to the definition of major and minor subdivisions. Staff has received maps where an individual is attempting to only record the dedication of new right-of-way or improvements to an existing street, many times this is a land requirement which technically are required to be processed as major subdivisions. Staff is recommending that this be moved to an administrative process. The removal of any right-of-way or easement for the purpose of water/sewer being included in the definition of a major subdivision. A minor subdivision would be amended to reflect that it is not anything exempt or a major subdivision. A clarification of the existing requirements for a Farmhouse Cluster so that those interested in this type of development may review the requirements in one location versus combining the ordinance requirements to determine how to proceed with this type of development.

K. Jones asked if the major and minor definitions would be changed as it relates to erosion and water run-off. Staff confirmed that there is no change to the water run off and erosion requirements, if installation of drainage improvements through one or more lots to serve or more other lots it would automatically be a major subdivision.

S. Moore asked if the Farmhouse Cluster must now go through Town Board for approval. Staff confirmed that is an existing requirement.

F. Gammon expressed similar concerns to K. Jones regarding the drainage improvements. Staff restated that there is no proposed change to the existing requirements for drainage improvements as it relates to minor or major subdivisions.

M. Jones asked if Staff could provide the Board with examples of what has necessitated these changes. Staff shared that one example has been commercial plats where the applicant is proposing to dedicate a new right-of-way and that is the only thing they are seeking to achieve with the plat. Due to the current definition in the ordinance, that is considered a major subdivision and they would have to go through the subdivision process. Staff has also seen where a minor subdivision of 3-5 lots have a nearby water/sewer access point that they would like to tap into; however, doing so would make it a major subdivision; requiring the developer to be well and septic. If the lot does not perc the small-scale development is not financially feasible which seems burdensome and an unnecessary hardship.

M. Jones asked for clarification on the definition of minor subdivisions items that are struck through and if that now means that those requirements will no longer be required. Staff reviewed the current ordinance and explained that the ordinance is written to state these five items are what a minor subdivision does not involve. These requirements are not changing and are not going away, the change in wording is to simplify and make the statement cleaner and more easily understood.

S. Moore recommended that a slide outlining the definition of a major subdivision would outline those five steps and the Board being able to see that would be helpful to show that this clean up is simply to remove the repetitive language. E. Sloop commented that the only three options are exempt, minor or major subdivision. This cleanup is simply to state that a minor subdivision is anything not a major subdivision or exempt.

Staff stated that they would bring this to a future meeting with the requested additional information for the Board's review.

M. Jones made a Motion to Continue the item to the November meeting with clarified aspects of the presentation so the Board can better identify how these amendments fit with the ordinance. F. Gammon seconded the motion. The motion passed unanimously (9-0).

5. Discussion and possible recommendation on amendment to multiple ordinances to comply with SB 300, decriminalization of certain ordinances (Attachment 7).

E. Sloop, Town Attorney stated that the proposed amendments are being made to comply with the new legislation. It is now a requirement to make these edits.

M. Jones stated that he has not read SB 300 but if this is to come in compliance that sounds like a necessary amendment.

L. Munger asked for clarification on the tree save policy and asked if there was any conflict with this legislation, and agreed with M. Jones that if this brings us in compliance with state statutes it is pretty much mandatory. E. Sloop responded that this does not affect the protocols, this legislation deals more directly with the enforcement options available to the Town.

L. Munger made a Motion to Approve the recommendations to amend multiple ordinances to comply with SB 300 decriminalization of certain ordinances. T. Taylor seconded the motion.

F. Gammon commented he has also not had time to review SB 300 and these amendments may just be to be in compliance with that but when the SB 160D changes were proposed there was enough time provided for the Board to review it and in this case there was not so he will not be able to support it at this time. He then asked staff what the rules for the Planning and Ordinance Board are related to not taking action on an item. Staff clarified that if the Ordinance Board does

not take action, it will still move forward. F. Gammon confirmed he has not had time to read the bill and therefore could not in good conscience support the motion at this time even though there may not be any issues with it. E. Sloop stated that to summarize SB 300 it decriminalized many ordinances meaning that a misdemeanor charge cannot be issued for a violation for these enumerated ordinances. The proposed amended ordinances have removed a misdemeanor as an enforcement option, there have been no substantive changes.

M. Jones asked if a substitute motion is an option at this point. T. Finlay asked if there is a timeline to come in compliance with SB 300. E. Sloop stated it should be done as soon as possible.

M. Jones asked if the Board should call a special meeting to ensure they understand the proposed changes. J. Simoneau responded that with 160D there were extensive changes throughout the ordinance, with SB 300 it is only to decriminalize and remove a singular enforcement method. M. Jones asked if a substitute motion can be made or if the Board needs to take a vote since there is a motion. E. Sloop commented that a vote can be made on the motion since it received a second.

The motion passed (5-4) with M. Jones, K. Jones, S. Moore, F. Gammon opposed. F. Gammon commented that he was opposed due to not having enough time to review SB 300.

E. Adjourn

F. Gammon made a Motion to Adjourn. J. Henson seconded the motion. The motion passed unanimously (9-0).