



## **AGENDA**

### **Regular Planning Board Meeting**

**April 26, 2022 - 6:30 PM**

**Town Hall 101 Huntersville-Concord Road**

**Live Stream:** <https://www.facebook.com/HuntersvilleNCTownGovernment>

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes**
  - 2.A. Consider approval of the March 22, 2022 Regular Meeting Minutes ()
- 3. Public Comments** - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*
- 4. Action Agenda**
  - 4.A. Consider the recommendation of S22-01, Birkdale Landing Special Sign District, a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Pkwy, Tax Parcel 00917184. *(Lauren Speight)*
  - 4.B. Consider the recommendation of TA22-03, a request by the Town of Huntersville Planning Department to amend Article 8.9.1 and 12.2.2 related to clear sight triangles in order to comply with HB 489. *(Nathan Farber)*
  - 4.C. Consider the recommendation of TA22-04, a request by the Town of Huntersville Planning Department to remove the special use requirement for street facing solar panels in Article 9.54.1 and to reorganize and clean up Article 9.54 to bring the ordinance into full compliance with State Statute 160D-914. *(Nathan Farber)*
- 5. Other Business**
  - 5.A. Downtown Plan Public Forum #2 - May 12th, 6 - 8 p.m. at Huntersville Presbyterian Church ()
- 6. Adjourn**



## **Minutes of the Town of Huntersville Planning Board**

The Town of Huntersville Planning Board met virtually at 6:30 p.m. on Tuesday, March 22, 2022.

### **Call to Order/Roll Call**

Chairman Swanick called the virtual meeting to order at 6:30 pm.

**Present:** S. Swanick, J. Snyder, S. Hensley, G. Baber, C. Boyd, T. Loomis, J. Wright, F. Gammon, and J. Henson

### **Approval of Minutes**

#### **Item 2A. Consider approval of the February 22, 2022, Regular Meeting Minutes**

**Motion:** J. Wright made a Motion to Approve the February 22, 2022, minutes. J. Snyder seconded the motion.

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

Prior to hearing Public Comments, Chairman Stephen Swanick requested that Staff review with the Board their role regarding subdivision reviews. Jack Simoneau, Planning Director indicated that two items on the agenda are subdivision sketch plans which when they get to the Town Board will be heard as quasijudicial items. The Planning Board role is to base your decision on if the application is designed to meet the standards of the ordinance or not and should be based upon the facts. As a reminder all motions from the Planning Board should indicate if it is reasonable and in the public interest and if it complies with the long-range plan.

### **Public Comments**

David Doctor, resident, 13515 Serenity Street stated, “we’re within 250 feet of the proposed Valea subdivision development. We have submitted written comments and I will be brief. We bring two items to the Board’s attention, one of which you can do nothing about, it is simply to raise your awareness. It has to do with the mandatory requirement of retention basins for stormwater runoff that’s required by Mecklenburg County. We can’t do anything about it, you can’t do anything about it, but there is increasing awareness. The US Forestry Department, the Environmental Protection Agency, many forward looking states, many forward looking cities are increasingly using forestation to deal with stormwater runoff. So, the alternative that you are faced with as a result of Mecklenburg County rules is that the developer is going to have to strip all of the lovely forestry that is there now and create a pit that stormwater runs into. So again, we just raise that for heightened awareness. The other matter has to do with the connection of Serenity Street during the construction phase to the proposed development. What we request, and we have visited with Mr. Bowman many times, he is sensitive to the request. What we request is that Serenity Street not be opened to the development until such time as the development is ready for final paving. The purpose there is to keep the heavy construction traffic off of a Huntersville residential street. It is final improved with curbs, gutters, sidewalk, landscaping, etc. We witnessed when the development in our area on Banter was under construction and Serenity Street was final paved, that there was considerable damage to the street, to the roundabout that exists in that area. I think if you check your records with Public

Works, I think you will find that there were several amounts of reconstruction that was necessary after Banter was done. Serenity Street was under city maintenance at the time. So, we simply ask that Serenity Street not be opened until such time as the small development area off of Dellwood, which is 15 homes, be ready for final paving. That's all we have to say."

Dewayne Turner, 8416 Union Circle stated, "I am not in the community, but I am here representing the community. I am licensed realtor and commercial broker as well as a Chair for Fair and Affordable Housing Advisory Group. I wanted to make my presence here today to speak on behalf of the residents of Pottstown. There was some questioning regarding the new development that has been in place as well as proposed. The one thing that we are trying to be sensitive of in the community is, one of the reasons being is the tax hikes given that people in the community are typically of an income level that is not increasing as well as with the tax rates in the neighborhood. It's a matter of, I feel, involvement and inclusion and the Town's exclusion. The residents of the community are looking at alternative measures to increase the value in the properties around the community; however, there is a development already in place. There has been bucking against the development because it doesn't represent the interests of the community. I feel that with the proper voice they can be helped to articulate these things and maybe have some reconsideration regarding the development. I personally am not a person that is against redevelopment. I am personally, also, very mindful of including the people who are in that development. I am from another city where I have seen this happen before and I am looking to, if we could, create a way for everyone involved to be satisfied with the development. The tax rates have been changed in 2019 assessment, building has been going with Vermillion for many years prior to that so again, tax rates with the current populace of the community, it is changing. The values are changing; however, I feel it is going to get to a point where they are going to be priced out of the community based upon trends of development here in Charlotte. We have obtainable housing problem here and Pottstown is one of the remaining communities that is very historic and historically African American. There's a lot of integrity and history that they are looking to preserve. There have been people who have been there for five generations. I think what we are asking for on behalf of Pottstown is inclusion and having a voice to be more of a driver to what is happening in that development as opposed to having the voice mauled."

Mark McClanahan, 6731 Constitution Lane, Charlotte stated, "I am a commercial real estate broker with SV & Blackstream on behalf of my client, Ronnie Henson with North Mecklenburg Properties. I have three listings for his properties, one of which is on Church Street. The other is on North Old Statesville Road and Holbrook Road. I'm attending on a fact-finding mission and to meet the members of the community."

Veronna Wynn, 13219 New Haven Drive stated, "My property adjoins Valea Village, and I am a member of North Mecklenburg Communities United and I'm also here for that organizations representation of Pottstown. There are many reasons why I oppose the building of Valea Village. #1: The parcels that include Valea Village has at least one parcel without clear title that came from the Town of Huntersville. I have researched this thoroughly to determine through North Carolina One Geospatial Computer Mapping and the Counties Geospatial Computer

Mapping and an online time search firm has indicated that they could not find any other titles attached to property 01908108 which is attached to the Rosenwald School property. The search says that this property was sold by Hannah Holbrook in 1899 to what was then known as Huntersville Missionary Baptist Church and is now known as St Phillip Baptist Church. The deed book for this particular property is found at 140 on pages 126-128. #2: I oppose the development because of the adverse economic impact that it will have on my community, Pottstown. I sold Mr. Bowman some of that property, 27 acres but I did not know then how involved the Town was in fostering high-level development, high property homes in adjacent properties to ours. We thought that others would be able to develop that property for low-income persons living in Pottstown or elsewhere. What we know now is that the tax map, #63 shows Vermillion with over a thousand homes, Monteith Development is included in their tax map, and they are a little bitty community of 150 homes at most now. We dwindled down from 300 (homes) in the 80's to 150 (homes). The Town of Huntersville promised in their annexation papers when Sarah McAulay was Mayor that we would organize with extended utilities that the Town has not provided since that time. No new sidewalks, no new curb, we have water drainage and places holding water for after the rains have come. We know that as the gentleman earlier said, we get priced out of our current homes. Most of the people are over 65 who live there. Can they afford the new taxes? No. You should take that into consideration. That may not be legal, but it will be moral to hold off not sanctioning his development because he wants to come further, he wants to keep coming on and surrounding our development and squeezing out the neighborhood persons who have low income. If they are going to live there, it might be feasible in their minds to say move but to try to move to a neighborhood/income that they can afford. That might be hard. We know that the tax map shows we encroached and a few weeks ago when the Town Board was looking at the rescue plan dollars, the Assistant Plan Manager said that because the tax bracket and income level with the whole tax map #63 we wouldn't get any extra or any specific dollars from the Town of Huntersville for what is now the basic part of Pottstown. Another point I would like to make is that the trees in Valea Village are older than I am, older than 70 years. They haven't been touched for over 70 years. When Randy Quillen was Mayor, he approached my mom to get that land to make it a greenway which means he told her that there were a lot of hardwood trees and he told her that it would be a perfect place for Huntersville greenway to connect Main Street side through to Holbrook side, the communities. Mr. Bowman decimates trees. I have pictures going down Holbrook that shows how big bulldozers are making it all red clay. I can end up with the idea that this is also historic property. It surrounds the Rosenwald School and St Phillips Baptist Church, very historic African American properties in the Town that should not be overwhelmed by more development. Vermillion contains over a thousand homes. Thank you."

### **Agenda Change**

**Motion:** G. Baber made a Motion to Amend the agenda and hear Item 4E as Item 4C. S. Hensley seconded the motion.

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

### **Action Agenda**

**Item 4A: Consider Recommendation for Valea Subdivision, a request by Valea Bowman, LLC to subdivide 29.217-acres located south of Dellwood Drive and east of Central Avenue at 14215 Holbrooks Road into 36 single-family lots.**

J. Simoneau, Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff provided a summary of the request to subdivide 16.62 acres of an overall 31.837-acre tract, to develop 36 single family lots for a proposed density of 2.1 units/acre. All lots are 60' wide or greater therefore no on street parking is required. The proposed lot sizes are 5,106 – 9,948 square feet which on average is 7,886 square feet.

The previous modification request to reduce the buffer along St Phillips Baptist Church has been withdrawn and the applicant will have a full 20' buffer in place.

Staff reviewed the comments provided by Stewart Gray, Historic Resources Program Manager with Mecklenburg County which indicated that 410 Dellwood is the Historic Alexander House and eligible for the National Register, and 318 Dellwood Drive is a circa 1915 home that was likely an original part of the Pottstown neighborhood and may merit recognition and protection. The plan shown does not pose any significant impact to the historic character of the houses. The goal of Planning and Engineering staff is to not negatively impact those properties. The proposed road will be made up of two 9' travel lanes, 1.5' of curb and gutter on each side, 4' sidewalk on one side of the street that could potentially increase in width if there is additional width available with no grass strip or street tree requirement.

F. Gammon asked why there is no 20' buffer requirement or modification for the proposed road to the existing residential. Staff responded that similar to Holbrook Road at Hillcrest Road this can be administratively determined based on the right of way being narrow.

Staff reviewed the block length waiver request to create a 674' long block. Staff supports this request because the options for adjusting this would be limited by a creek, significant trees, the historic Rosenwald school and the existing development.

Additionally, the two parcels facing Central Avenue will have the homes oriented to face the existing streets.

**Motion:** G. Baber made an Amended Motion to Approve the Valea Subdivision as the Planning Board finds the application complete. We find the application applies with all applicable requirements of Section 6.2, the Town of Huntersville Subdivision Ordinance. These findings of compliance are supported by policies EOS8.3, EOS10, LU2.1, LU7.1, LU11.1, T3.1, and T5.1 of the Huntersville 2040 Community Plan. Further, we also find the application to be in compliance with the directives of the East Huntersville Area Development Plan. This compliance is contingent upon the following items: 1) urban space designs are added to the plans to ensure compliance; 2) stormwater plan approval; 3) secure financial guarantee from developer to insure the future development of road C to the lot line. The Planning Board recommends approval of the sketch plan application with the following recommendations also: 1)

collaborate with Huntersville Parks and Recreation staff to identify potential pedestrian connections to the Torrance-Lytle Community Center; 2) consider annexing the additional portions of the development; 3) applicant completes and provides an enhanced title search to ascertain the validity of the claim being disputed. S. Hensley seconded the motion.

**Vote:** The motion passed (8-1) with F. Gammon opposed.

**Motion:** C. Boyd made a Motion to Recuse Jay Henson from the discussion of Item 4B. J. Snyder seconded the motion. The motion passed (8-0).

**Item 4B: Consider Recommendation on Petition #R21-17, a request by HFH Partners, LLC to rezone (+/- 3.8 acres) 202, 204, 206, 208 Gilead Rd from Neighborhood Residential District to Traditional Neighborhood Development Urban Conditional District for a mixed-use development (Parcel #s 01712112, 01712111, 01712110, 01712109). (Brian Richards)**

B. Richards, Assistant Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff provided a summary of the rezoning request. The proposed use includes up to 19,000 square feet of commercial and 29 townhomes at a density of 7.6 units per acre.

The tree survey has been revised with a report from an arborist indicating that many of the trees are in poor health. Following that revision 2 specimen trees will be saved, 3 are required so the applicant will consider mitigation via on site planting and fee in lieu based on what will be most appropriate.

The applicant is requesting four modifications. The first is for buffer yard reduction from 20' to 10' along the east and north property lines as well as small reduction on the west property line where there is an existing HVAC system. Staff is in support of this request and notes that the applicant is offering a higher percentage of evergreen plantings and a 6' privacy fence along the east property line to mitigate visual impact.

The second modification is for a rear setback of 14' versus the required 20-25' to allow for urban open space to be maximized. Staff is in support of this request and notes that the applicant is offering a well-designed pedestrian passageway for the interior townhomes to front.

The third modification is for a height of 33' for the townhomes that front Gilead Road where the maximum height allowed is 30' to break up the building facades and allow for the integration of vertical relief and varying architectural features. Staff is in support of this request as it is in keeping with the intent to have some architectural interest.

The fourth modification is for internal landscaping. One front and one rear yard canopy tree are required. The applicant is requesting this be waived due to small lots and the inability for canopy trees to survive and flourish. Staff is working with the applicant on this request to

identify where trees can be planted on site and would consider mitigation if the full requirement could not be met on site.

The proposed site falls within the Town Core and Downtown – Tier 2. The proposed uses are supported by the Huntersville 2040 Community Plan. The 2006 Downtown Master Plan which is currently being updated indicated right-of-way improvements. The applicant is offering 80' of right-of-way and Engineering is requesting 100' of right-of-way per the unfunded STIP project U-5807. Gilead Road is designated a minor thoroughfare and as such our current ordinance requires only 70' of right-of-way.

The applicants Jay Henson and Brian Hines, 121 Gilead Road explained that the townhomes are oriented to face Gilead Road with the Cottage style townhomes with a lower profile and elevation that front a large open green area. The commercial space along Gilead Road is a 2-story flex space. The yellow house and garage will remain that will turn into some sort of commercial space. The applicants have been working to achieve an access easement to the greenway from the project and will reserve a right-of-way to accomplish this if approved by CMS, Mecklenburg County and the Town of Huntersville. The applicant explained that they are exploring an alternate underground stormwater system utilizing pervious pavers with no catch basins or pipes which will make the parking lot and the alley.

S. Swanick asked how this will compare to a traditional asphalt parking lot. J. Henson responded it will be an interlocking paver with small stones that immediately accepts water.

Abe Lehman, 6020 Stephens Road Huntersville NC is the builder for the Townhomes and stated that this similar paver system is being used currently on a project in Davidson. It has worked fantastically and through construction there has been no issue. There is no curb or gutter, and it gives a very pretty finish.

**Motion:** F. Gammon made a Motion to Approve R21-17, Gilead Road Mixed Use, from Neighborhood Residential (NR) to Traditional Neighborhood Development Urban Conditional District (TND-U-CD). The Planning Board finds that the rezoning is consistent with Huntersville Zoning Ordinance Articles 11.4.7(d), 11.4.7(e), and Huntersville 2040 Community Plan policies LU2.1, LU5.1, LU5.3, LU6.2, LU6.3, LU7.1, LU8.1, LU8.2, EV2.3, DT1.3, and DT11.1. It is reasonable and in the public interest to amend the zoning ordinance because the rezoning is consistent with the envisioned uses and development pattern set forth in the 2040 Community Plan and 2006 Downtown Master Plan. The Planning Board further recommends approval of Modification #1 (buffer yard), modification #2 (rear setback), modification #3 (building height) all of which are in keeping with the spirit of the ordinance and therefore supported. Although the Planning Board is inclined to recommend approval of modification #4 (front and rear yard trees) the Planning Board supports staff's request to continue discussions to explore options or mitigation. Further, this recommendation for approval is contingent upon the applicant addressing all outstanding Staff comments. J. Snyder seconded the motion.

F. Gammon stated that he attended the neighborhood meeting to listen to what the locals had to say, and the feedback was positive regarding what is proposed.

J. Sny agreed that the project is a welcome mix use. The applicants have demonstrated their desire to restore through their offices and now with incorporating 208 into this project is another good example of growth and keeping what we can from the old as well.

T. Loomis commented that she loves the concept and the pavers, and she thinks that incorporating some rooftop accessory use may be another good option to consider relative to the text amendment that will be discussed later.

S. Hensley commented that the two different housing types and mixed-use development is a refreshing take.

S. Swanick commented that it is a great project.

**Vote:** The motion passed unanimously (8-0) with J. Henson recused.

**Motion:** F. Gammon made a Motion to Reinstate J. Henson. J. Sny seconded the motion. The motion passed (8-0).

**Item 4C: Consider recommendation on Petition #TA22-01, a request by the Town of Huntersville Planning Department to amend Articles 11.4.3(a), 11.4.9, and 12.2.1 of the Zoning Ordinance to clarify the Down-Zoning definition and initiation of the process. (Kayleigh Mielenz)**

K. Mielenz, Planner I entered her staff report into the record, a copy of which is attached hereto as Exhibit D and incorporated herein by reference. Staff provided a summary of the request to update the ordinance to come into compliance with state statute 160D.

F. Gammon asked if the definition and time lapse were sufficient. Staff commented that the portion identified has not proven to be an issue and has been written as stated since 1996.

S. Hensley asked for confirmation that the change from our current three years to the proposed two years is directly due to state statute 160D. Staff confirmed this is directly due to compliance with the state statute.

**Motion:** C. Boyd made a Motion to Approve TA22-01, the Planning Board recommends approval based on the amendment being consistent with all policies of the Huntersville 2040 Community Plan as the amendment is necessary to comply with state legislature, it is reasonable and in the public interest to amend the zoning ordinance because it is necessary to coordinate the Huntersville Zoning Ordinance to comply with state legislature. S. Hensley seconded the motion.

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

**Item 4D: Consider a recommendation on Petition #TA21-15, a request by the Town of Huntersville Planning Department to amend Zoning Ordinance Articles 8.7, 12.2.1, 4, 7.10, and 7.11 to allow and place standards for Rooftop Amenity Spaces to exceed the maximum building height. (Jack Simoneau)**

K. Mielenz, Planner I entered her staff report into the record, a copy of which is attached hereto as Exhibit E and incorporated herein by reference. Staff provided a summary of the request to allow and place standards for rooftop amenities that exceed the maximum building height, not for buildings that do not exceed maximum building height. The proposed amendment would affect shopfront mixed-use buildings and apartment type buildings only.

North State Development would like to add a 750 sq foot amenity space on top of a mixed-use building that is already proposed to meet the maximum building height. Currently this would not be permitted. The approved rezoning height is 52.5 feet. An illustration was shared demonstrating the current proposed structure and a revised structure that would be submitted with a rooftop pergola in the event this amendment is passed.

Staff reviewed area communities for research on access, building height, locations, size, and setbacks. The proposed amendment allows for the rooftop space to count towards 1,500 square feet of urban open space if the space is accessible to all residents.

The Ordinance Advisory Board did not recommend approval. The public hearing yielded one public speaker that was not in favor the amendment due to their concerns for adequate protection of surrounding properties. Several commissioners made comments that they had concerns with the potential impacts to neighboring properties and its association with the North State project. Planning Staff recommends approval.

G. Baber asked if the maximum size permitted is 1,500 square feet. Staff responded that is the maximum space allowed for buildings that exceed the maximum building height. If a rooftop amenity was within the allowed building height it could be much larger but similarly would only count 1,500 square feet towards urban open space.

C. Boyd asked relative to the comment from the public hearing if the concern was someone throwing something off of the building or what was expressed and if these same issues are addressed with buildings that do not exceed the maximum height. Staff stated that there have been some comments relative to safety and privacy as well as noise and light pollution which is why those are addressed specifically in the proposed amendment. If the rooftop amenity did not exceed the maximum allowed building height, then the additional restrictions to amplified sound and exterior lighting being off by 11:00 p.m. would not apply. There are no additional safety measures when the building does not exceed the maximum allowed building height.

T. Loomis asked if this would apply to any other projects in Town and if there would be landscape requirements or if this could simply be concrete and chairs. Staff confirmed there are no other projects submitted requesting this accessory use at this time and the proposed

ordinance states that the area shall have landscaping materials. An applicant would then have to show the proposed layout and staff would identify if it met the spirit of the ordinance or would deny it and the applicant could appeal the decision to the Board.

G. Baber asked if there is a difference in requirements of urban open space and green space. Staff identified pages 6-13 of the subdivision ordinance outline the requirements which include the landscaping.

J. Henson asked if staff could show where this is being proposed relative to the North State development. Staff identified that it is proposed at the corner of Gilead and Street A which is the road that currently buffers the existing Town building on the Northwest side.

S. Swanick asked F. Gammon, Planning Board member on the Ordinance Advisory Board to provide some comments as to the split vote. He stated that his understanding was that the vote was split because not enough was offered, it was too specific for one project and should offer even more.

F. Gammon asked staff for confirmation that this accessory use could be built with this amendment but would only be eligible to count towards open space if it is accessible by all residents. Staff confirmed that is correct.

S. Hensley asked if the open space consideration is currently allowed when a building does not exceed the maximum height and if the concept of urban open space is meant to serve only the community it is within or the community whether you live there or not. Staff responded that a rooftop amenity as open space has never been requested and therefore never considered but this amendment would make that possible. Urban open space is meant to serve the community it is within and typically the maintenance is funded through that community's homeowner's association. It can additionally be open to the public.

J. Sny asked staff to share the rationale behind limiting the amplified music due to exceeding the height versus no limitation to amplified sound for a building at a lower height, and why a rooftop amenity amendment is not being proposed regardless of building height that addresses all of these issues. Staff responded that these limitations were taken directly from neighboring municipality ordinances where it appears the goal is to regulate what may be a concern due to the exceeded height. All developments would be subject to noise and light ordinances regardless of building height. An overall amendment will likely be needed in the future for more building types, but this will be a learning experience.

C. Boyd commented that he agrees with the statement that if it needs to be regulated it should be for all rooftop amenities and not just if the building exceeds the height allowed.

G. Baber commented that to avoid another text amendment he has concerns that a building regardless of size is allowed the same 1,500 square foot limitation. Staff responded that a

future rooftop amenity amendment will likely be needed but that was not the goal with this amendment.

F. Gammon made a comment that this is the first and only four-story building in Downtown. Huntersville is going to have to quickly identify what they want to be and look like and this will be a feature that will need to be included in that discussion.

**Motion:** S. Hensley made a Motion to Approve TA21-15, the Planning Board recommends approval based on the amendment being consistent with policies LU8, LU8.2, LU11, LU11.1, DT1.1, DT1.4, and DT11.4 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest because as the Town continues to grow it will take on more urbanized form and we expect to see greater desire for more rooftop amenities. S. Swanick seconded the motion.

S. Hensley commented that the proposed amendment could serve to enhance what is allowed and there seems to be a consensus that an urban open space is an amenity to a building and there does not seem to be a reason to penalize a pending project that has the ability and desire to incorporate this now just because we believe it could be written and done better in the future.

S. Swanick commented that this is often how new ideas are shaped. A developer may ask for something that has not been considered previously and the amendment should be crafted to make this a viable option for anyone even if the idea stems from a singular project. It has also been our practice to go back and amend further as needed to create additional improvements.

F. Gammon asked if an amendment could be made to include citing policy LU 7.2 in the motion which is stated in the staff report. **S. Hensley accepted the amendment. S. Swanick accepted the amendment.**

G. Baber stated that he is still split in his decision on this, and he does not want this to penalize the developer, but he is also torn between possibly kicking this back to staff to improve the wording and regulations. He is in support of rooftop amenities but the limitation of 1,500 feet is still a concern that he would like to get right.

S. Hensley commented that he agrees we want to get it right, but he will go back to what staff stated that this is intended to be an accessory use, given typical building sizes for these building types 1,500 square feet actually feels right and, in the future, if a large building is proposed then an amendment may be necessary.

J. Snyder commented that it is a use and option that he would like to see available, he has a better understanding of what staff's intention is, and he would be fine with this as a starting point. Regardless of that he will not be voting for it due to his conflict that the applicant proposing this is the Town of Huntersville instead of North State Development and the language feels very crafted to their specific circumstances. Staff responded that when the applicant presented the accessory use that staff felt it would be a good addition for the whole town, but the

amendment needed to be thoroughly researched and compared to area municipalities. As this applies to North State Development this amendment is much more than what they were proposing of 750 square feet and no need for Urban Open Space.

**Vote:** The motion passed (7-2) with J. Sny and T. Loomis opposed.

**Item 4E: Consider Recommendation for Hill Street Subdivision-Phase 3, a request by Hill Street Bowman, LLC to subdivide 0.401-acres located at the intersection of Hill Street & Huntersville-Concord Road at 13895 Hill Street, Parcel # 01905211, into 6 town home lots.**

D. Peete, Principal Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff provided a summary of the request to develop six townhome lots with a private alley access drive. Staff identified that the townhomes on the Southwest side will front an urban open space that will either be the future greenway or a park. The applicant would prefer to have the coordination with Mecklenburg County and the greenway completed but either option will be acceptable to staff.

Staff finds the application complete. There are three additional comments that include that the urban open space greenway is coordinated with Mecklenburg County, stormwater concept plan is approved by Town Engineering, and all outstanding redline comments are addressed.

C. Boyd asked what the view along Huntersville-Concord will be like with the development and/or the greenway. N. Bowman, 205 South Church Street stated that the buildings are partially below grade, and they will wait for Mecklenburg County to identify what they want for the greenway access and then they will landscape around that.

G. Baber noted that the Willingness to Serve is outstanding. Staff commented that they do not have it, but the notes already indicate that issuing of permits is contingent on this being obtained.

**Motion:** J. Wright made a Motion to Approve the Hill Street Phase 3 Sketch Plan as the Planning Board finds that the application is complete. The Hill Street Subdivision Phase 3 Sketch Plan complies with all applicable requirements and is supported by the Findings of Fact outlined in parts 2-4 of the Staff Report. The Planning Board recommends approval of the proposed subdivision sketch plan with the condition: 1) urban open space greenway is coordinated with Mecklenburg County; 2) Stormwater plan is approved with engineering at the preliminary plan state; 3) that all other minor site plan/redline comments are addressed. J. Sny seconded the motion.

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

**Item 4F: Consider recommendation on Petition #TA 22-02, a Zoning Ordinance text amendment by the Huntersville Town Board affecting the Neighborhood Residential, Neighborhood Commercial, Town Center and Highway Commercial zoning districts by removing the ability to exceed 30 percent attached houses (row house, townhouse or**

**duplex), apartment buildings and mixed-use buildings (commercial & residential in one multi-story building) in major subdivisions located within ¼ mile of designated rail transit stations (3.2.4(d)(4), 3.2.6(d)(4), 3.2.5(d)(4), 3.2.7(d)(4)(a)). (Jack Simoneau)**

J. Simoneau, Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit F and incorporated herein by reference. Staff provided a summary of the request to remove the ability to develop greater than 30% attached housing within ¼ mile of designated rail stations. Staff stated that the Town Board has requested that this amendment be proposed because the transit rail is not coming any time soon.

Staff reviewed a summary of the current zones and how they would be affected by this amendment. There are additional zoning districts that would allow for greater density if an applicant chose a lot within that zoning or to request rezoning to one of those designations.

S. Swanick asked for confirmation that the by-right greater than 30% attached housing will be going away and if it can still be achieved through rezoning. Staff confirmed that is correct within the ¼ mile of proposed transit rail stations and it is absolutely an option in other zoning districts, likely on parcels adjacent to zoning that currently allows that density and not as a spot zone.

J. Sny asked for clarification related to future development of 100% townhomes versus condominiums. Staff responded that 100% townhomes would likely be a major subdivision that would require stormwater which likely would not be approved. Staff stated that the only way to achieve 100% townhomes would be to strike out apartment building and mixed-use buildings and not strike out townhomes in the proposed amendment.

S. Swanick asked if parcels adjacent to Town Center zoning could seek rezoning to Town Center. Staff confirmed they could, but this amendment would remove the attached housing option from Town Center zoning as well. Staff stated that there is currently a Downtown Plan underway that will review the need for residences in proximity to businesses to achieve future growth. This Plan could potentially bring about code change that will affect this or similar zoning based on future Downtown growth but not based on future transit.

J. Henson stated that he has researched this and commented that he is not under contract with any clients that are pursuing this type of zoning, nor does it relate to the project discussed earlier this evening. He continued that he has looked at three existing sites to determine what exactly the problem is with this current ordinance. The lots yielded the same number of apartment units as they would attach housing which would become the only available option following this amendment. He stated he is not sure that the win is to only allow apartments and he struggles with taking away home ownership when the density is the same.

F. Gammon commented that the allowance of density in the Downtown area has never been the issue for him, it has been how it has been allowed. We have allowed unlimited by-right density based on the fact that they will exist within ¼ of a mile of a non-existent rail station based on a commuter rail that is not even proposed to happen. It is his understanding that the

removal of basing these decisions on non-existent transit stations will allow for discussion on the correct way to allow for density under existing zoning options and possible future options that will be introduced.

J. Henson suggested that possibly the Steering Committee should be making a recommendation for the Downtown as this seems to be trying to address two different issues that should be separated, Downtown and transit rail stations.

S. Swanick replied that it is his understanding that the issue is with the boundaries being created by non-existent rail stations and the goal is to change what factors the decision for possibly density. In his opinion the error in the proposed amendment is to include Town Center zoning in this amendment. Staff responded that the amendment before the Board does not accomplish this because it is based on the request by Town Board and it would not surprise staff if changes will be proposed through the Downtown Plan Steering Committee which will look at the land uses, transportation uses and more.

**Motion:** F. Gammon made a Motion to Approve TA22-02, Allowed Density Near Rail-Transit Stations, as written. The proposed amendment is consistent with Huntersville 2040 Community Plan policies LU2.1, LU5.1, LU10.1, LU11.1, DT1.1, DT1.2, DT1.3, DT2, DT11.1, and DT11.2. It is reasonable and in the public interest to amend the zoning ordinance because: 1) TA22-02 removes any reference of allowed density based upon the proposed locations of rail-transit stations; 2) A variety of residential building types and rezoning options are still allowed by the zoning ordinance. S. Swanick seconded the motion.

F. Gammon commented that he is in agreement with the Town Board on this one that decisions should not be made on something that does not exist and does not appear will exist in our future. It will be the Town Boards responsibility in conjunction with the public on how they want to replace this or address this in the future and the public will be sure to let them know what they want as well.

S. Swanick commented that he seconded the motion because despite his questions and concerns he does support removing the non-existent transit station from the decision making. Any other problem solving goes beyond that.

C. Boyd asked if the motion needs to include anything regarding the problem solving or if we should simply let it play out and take however long it takes.

S. Swanick commented that he is the Planning Board representative to the Downtown Plan Steering Committee, and he would be happy to take comments to that group regarding this.

**Substitute Motion:** J. Snyder offered a Substitute Motion to Defer this item until the public hearing is closed. S. Swanick seconded the motion for discussion.

J. Snyder commented that the public hearing was extended due to one of the sponsors or co-sponsors not being present for the public hearing. It was extended until April 4, 2022. He stated that while he is not opposed to removing it, he is not a fan of repeal and not replace. We hope the replacement is coming and he would be the most open to waiting for that replacement.

F. Gammon commented that he sees no reason to hold up as the sponsor was dealing with a family matter and this request fits what he was requesting. J. Snyder commented that he does not disagree, but the Town Board felt it necessary to hold the Public Hearing open which is his rationale to also not making a decision on this at this time. F. Gammon responded that there was a public hearing, and the amendment is what the sponsor requested so he sees no need in keeping this open. With a decision from the Planning Board, it would be possible for the Town Board to open the Public Hearing on April 4, 2022, and make a decision on the same evening and without the Planning Board recommendation it would be delayed to May. Staff confirmed that without the Planning Board recommendation it would be necessary for the Town Board to take action on April 4, 2022.

**Substitute Motion Vote:** The motion to defer failed (2-6-1) with C. Boyd, G. Baber, T. Loomis, S. Swanick, J. Wright and F. Gammon opposed and S. Hensley abstaining.

G. Baber commented that while the intent may have been to slow density he will still vote for this motion because the relation to the transit rail station being removed is something he supports as it now seems arbitrary.

T. Loomis commented that she agrees that the imaginary line from the transit station seems arbitrary and because of this she is okay removing it regardless of the end goal.

J. Snyder agreed that the line does now seem arbitrary, but the density does still belong in Downtown, and he is not a fan of repealing this and not replacing this which he would be in support of doing all at once.

**Original Motion Vote:** The motion passed (7-2-) with J. Snyder and J. Henson opposed (C. Boyd abstaining and was counted as a yes vote).

### **Other Business**

No other business.

### **Adjourn**

**Motion:** J. Snyder made a Motion to Adjourn. C. Boyd seconded the motion.

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

**Town of Huntersville  
Planning Board  
April 26, 2022**

**To:** Town Board

**From:** Lauren Speight, Planner II

**Date:** April 26, 2022

**Subject:** S22-01

---

**EXPLAIN REQUEST:**

Consider recommendation on Petition #S22-01, Birkdale Landing Special Sign District, a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Pkwy, Tax Parcel 00917184.

**ACTION RECOMMENDED:**

Consider Recommendation

**FINANCIAL IMPLICATIONS:**

n/a

**ATTACHMENTS:**

1. Birkdale Landing SSD Staff Report\_PB
2. SSD Application
3. Minutes of Birkdale Landing Neighborhood Meeting
4. Article 10.11\_Zoning Ordinance\_11.29.2021
5. Proposed SSD Birkdale Landing Master Signage Plan
6. Amended Birkdale Landing Master Signage Program\_11.02.21

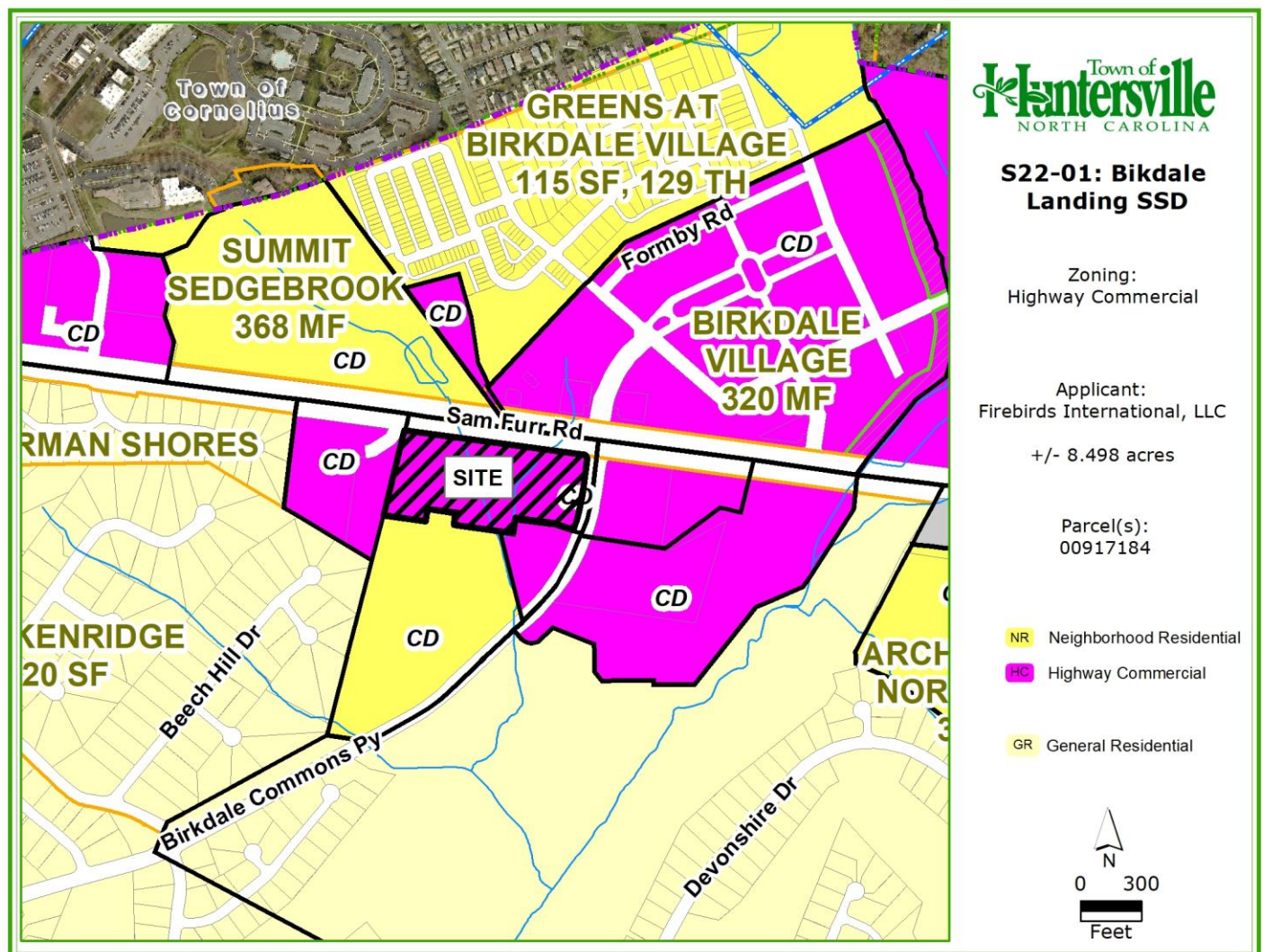
## Birkdale Landing Special Sign District Overlay

### PROJECT DESCRIPTION

Firebirds International, LLC is requesting on behalf of the property owner, Fairway Investments, LLC, to create a Special Sign District Overlay for the Birkdale Landing development. A Special Sign District is intended to impose sign regulations which provide greater latitude or more stringent limitations than those provided in Article 10 of the Zoning Ordinance.

There are two Master Sign Program options under Article 10.11, Planned Development Flexibility and Special Sign District. Birkdale Landing is currently utilizing the Planned Development Flexibility option, for which the master sign plan was administratively approved in February 2020 and amended in January and November 2021. Firebirds International is petitioning to switch Birkdale Landing to a Special Sign District to benefit from the increased flexibility allowed.

Birkdale Landing is located at the intersection of Sam Furr Rd (Hwy 73) and Birkdale Commons Parkway. The subject property is zoned Highway Commercial Conditional District (HC-CD).



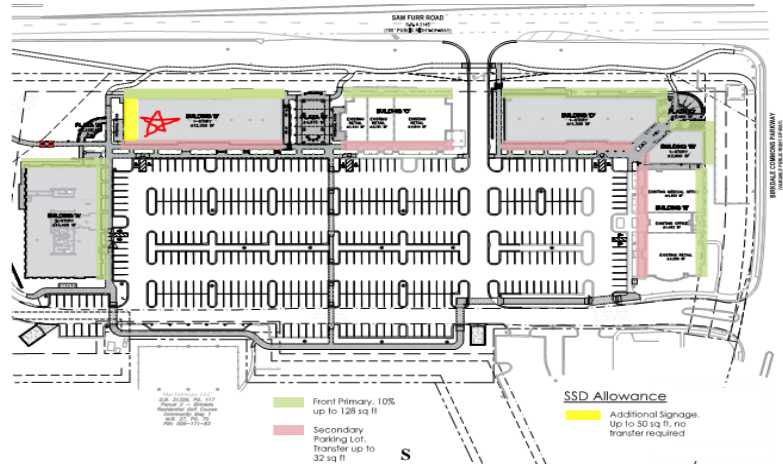
## SPECIAL SIGN DISTRICT DETAILS

Below are the major highlights of the proposed Special Sign District.

**Birkdale Landing non-street fronting wall sign.** Firebirds International, LLC is requesting to designate an exterior wall of their tenant space that does not front on a public street as a wall eligible for an additional tenant wall sign, up to 50 square feet. The sign would be classified as an additional sign and would not be subject to primary or secondary sign regulations (a primary sign would be allowed 10% of the wall area, up to 128 SF & a secondary sign would be allowed up to 32 SF and require a square footage transfer). Firebirds is proposing a 42 SF additional wall sign.



Patio Elevation



## STAFF RECOMMENDATION

**Birkdale Landing non-street fronting wall sign.** Staff supports the request to allow a non-street fronting wall on the Firebirds unit to be eligible for an additional tenant wall sign that's up to 50 square feet.

In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, Staff recommends approval based on the Master Sign Plan being consistent with the Huntersville 2040 Community Plan policies:

**Policy LU-7:** Require new development to follow design principles that reinforce the vision for the Town as expressed in this plan and other adopted plans. The town has committed to traditional town planning and urban design principles that are meant to preserve the character of the town. This commitment is noted in adopted plans and the zoning ordinance, and has been expressed in new development over the last 25 years.

LU 7.2: Consider updates to the Huntersville Design Guidebook and/or Zoning Ordinance as needed to improve the commercial and multi-family design.

**Policy LU-8:** Emphasize form and flexibility in Mixed-Use Centers, Employment Centers, the Town Core, and Activity Centers.

LU 8.1: Continue to emphasize form and flexibility in development regulations for these areas.

- The current zoning ordinance has basic form based standards with flexibility built-in. Key elements include allowing multiple types of land uses, a mix of uses, minimal setbacks, and parking requirements.

It is reasonable and in the public interest to approve the Special Sign District because it is consistent with the greater flexibility in form, style, and design desired by the 2040 Community Plan.

## NEIGHBORHOOD MEETING

The Applicant held a virtual Neighborhood Meeting on 03/03/22 at 6 pm. No one from the public attended.

## PUBLIC HEARING

The Public Hearing was held April 4, 2022. No one from the public commented.

## PLANNING BOARD RECOMMENDATION

April 26, 2022

## TOWN BOARD DECISION

Scheduled for May 16, 2022

## ATTACHMENTS

1. Application & Sign Example
2. Neighborhood Meeting Minutes
3. Zoning Ordinance Article 10.11
4. Birkdale Landing Sign Plan for SSD (Proposed)
5. Birkdale Landing Sign Plan for Flexibility Option (Current)

## STATEMENT OF CONSISTENCY – S22-01

| Planning Department                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Planning Board                                                                                                                                                                                                                                                                                                                                                                                  | Board of Commissioners                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>APPROVAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, Staff recommends approval based on the Master Sign Plan being consistent with Huntersville 2040 Community Plan policies LU-7, LU 7.2, LU-8, and LU 8.1.</p> <p>It is reasonable and in the public interest to approve the Special Sign District because it is consistent with the greater flexibility in form, style, and design desired by the 2040 Community Plan.</p> | <p>APPROVAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, the Planning Board recommends approval based on the Master Sign Plan being consistent with <u>(insert applicable plan reference)</u>.</p> <p><u>It is reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u></p>                   | <p>APPROVAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, the Town Board recommends approval based on the Master Sign Plan being consistent with <u>(insert applicable plan reference)</u>.</p> <p><u>It is reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u></p>                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>DENIAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, the Planning Board recommends denial based on the Master Sign Plan being <u>(consistent OR inconsistent) with (insert applicable plan reference)</u>.</p> <p><u>It is not reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u></p> | <p>DENIAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, the Town Board recommends denial based on the Master Sign Plan being <u>(consistent OR inconsistent) with (insert applicable plan reference)</u>.</p> <p><u>It is not reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u></p> |



# General Application

**INCOMPLETE SUBMISSIONS WILL NOT BE ACCEPTED. PLEASE CHECK ALL ITEMS CAREFULLY.**

## 1. Application Type

Please indicate the type of application you are submitting. In addition to the application, the submission process for each application type can be found at <https://www.huntersville.org/528/Permits-Process>

- ☐ Change of Use
- ☐ Commercial Site Plan
- ☐ Conditional Rezoning
- ☐ General Rezoning
- ☒ Master Signage Program
- ☐ Special Use Permit
- ☐ Revision to  
Original Project # \_\_\_\_\_
- ☐ Other \_\_\_\_\_

- SUBDIVISION CATEGORIES:** Per the Huntersville Subdivision Ordinance
- ☐ Sketch Plan
  - ☐ Preliminary Plan
  - ☐ Final Plat (Includes Minor Subdivision)
  - ☐ Exempt Subdivision
  - ☐ Final Plat Revision
  - ☐ Farmhouse Cluster

## 2. Project Data

Date of Application January 20, 2022

Name of Project Birkdale Landing Phase # (if subdivision) \_\_\_\_\_

Project Address 16641 Birkdale Commons Parkway, Huntersville, NC 28078

Parcel Identification Number(s) (PIN) 00917184

Current Zoning District HC(CD) Proposed District (for rezoning only) HC(CD)

Property Size (acres) 8.48 Street Frontage (feet) 894.47 Hwy 73 (0.17 miles) 371.15 Birkdale Commons Pkwy

Current Land Use retail establishments – applicant being a polish casual restaurant

Proposed Land Use(s) same as above

Is the project within Huntersville's corporate limits?

Yes ☒ No ☐ If no, does the applicant intend to voluntarily annex? \_\_\_\_\_

## 3. Description of Request

Explain the nature of this request. If a separate sheet is necessary, please attach to this application.

Please see Exhibits A, B and C attached hereto and incorporated by reference for complete details.

## 4. Site Plan Submittals

Consult the particular type of *Review Process* for the application type selected above. These can be found at <https://www.huntersville.org/528/Permits-Process>.

### 5. Outside Agency Information

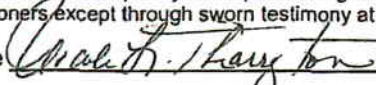
Other agencies may have applications and fees associated with the land development process. The *Review Process* list includes plan documents needed for most town and county reviewing agencies. For major subdivisions, commercial site plans, and rezoning petitions please enclose a copy of the Charlotte-Mecklenburg Utility *Willingness to Serve* letter for the subject property.

### 6. Applicant

Printed Name Firebirds International, LLC d/b/a Firebirds Wood Fired Grill Phone 704-944-5180

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

- ☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature  Printed Name: Nicole Tharrington

Title VP and General Counsel Email Ntharrington@fbgrill.com

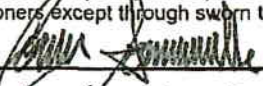
Address of Applicant 13850 Ballantyne Corporate Place, Suite 450, Charlotte, NC 28277

### 7. Property Owner (if different than applicant)

\*Printed Name Fairway Investments, LLC Phone 205-802-7202

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

- ☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature  Printed Name Connor Somerville

Title Development and Asset Manager Email connor@fairwayinvestments.com

Address of Property Owner 728 Shades Creek Parkway Suite 210, Birmingham, AL 35209

\* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this application MUST be accompanied by a notarized Limited Power of Attorney signed by the property owner (s), specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.

### 8. Development/Design Firm Contact Information

| Development Firm | Name of Contact | Phone | Email |
|------------------|-----------------|-------|-------|
|------------------|-----------------|-------|-------|

| Design Firm | Name of Contact | Phone | Email |
|-------------|-----------------|-------|-------|
|-------------|-----------------|-------|-------|

### Contact Information

|                        |                   |                                                                                                                         |
|------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------|
| Town of Huntersville   | Phone:            | 704-875-7000                                                                                                            |
| Planning Department    | Fax:              | 704-992-5528                                                                                                            |
| PO Box 664             | Physical Address: | 105 Gilead Road, Third Floor                                                                                            |
| Huntersville, NC 28070 | Website:          | <a href="https://www.huntersville.org/228/Planning-Department">https://www.huntersville.org/228/Planning-Department</a> |

Adjacent property owners and addresses within 100 feet of 16623, 16627, 16633, 16639, 16641, and 16647 Birkdale Commons Parkway, Huntersville, NC 28078 (per the Polaris 3G) – designated as Mecklenburg County Tax Parcel Number 01917184:

| <b>TAX PARCEL NUMBER</b> | <b>OWNER</b>                                                                                                             | <b>ADDRESS</b>                                                         |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| 00921118                 | Fairway – Birkdale, LLC, an Alabama limited liability company                                                            | 728 Shades Creek Parkway, Suite 200<br>Birmingham, AL 35209-4453       |
| 00921116                 | Fairway – Birkdale, LLC, an Alabama limited liability company                                                            | 728 Shades Creek Parkway, Suite 200<br>Birmingham, AL 35209-4453       |
| 00917183                 | Mar Fairways, LLC, a Delaware limited liability company, converted to NREA SE3 Fairways, DST, a Delaware statutory trust | 5429 LBJ Freeway, Suite 800<br>Dallas, TX 75240                        |
| 00917185                 | SmileVision, LLC, a North Carolina limited liability company                                                             | 16525 Birkdale Commons Parkway<br>Huntersville, NC 28078               |
| 00914136                 | Romspen Birkdale LLC, a Delaware limited liability company                                                               | 162 Cumberland Street, Suite 300<br>Toronto, Ontario, XX M5R 3N5       |
| 00914137                 | BOBs, LLC, a North Carolina limited liability company                                                                    | 19824 W. Catawba Avenue, Suite G<br>Cornelius, NC 28031                |
| 00914138                 | Gemini Investment Group, LLC, a North Carolina limited liability company                                                 | 16600 Birkdale Commons Parkway, Suite A<br>Huntersville, NC 28078-6181 |
| 00914139                 | BOBs, LLC, a North Carolina limited liability company                                                                    | 19824 W. Catawba Avenue, Suite G<br>Cornelius, NC 28031                |

Tax maps:





Customer:  
**Firebirds - Huntersville, NC**

16639 Birkdale Commons Pkwy  
Huntersville, NC 28078

Drawing #:  
**300615**

Date:  
**01/31/2020**

Revision:  
**02/12/2020tn**  
**11/03/2021DM**  
**01/21/2022DM**

Customer Approval:

Date:

Sales:  
**D. Martin**

Design: Check by:  
**Darin M.**

This design is the property of CASCO SIGNS, Inc. and remains our property until sign is purchased. Any attempt to reproduce this design or use by others for any purpose, without written consent is subject to prosecution to the fullest extent allowed by law.

All components & installations are approved & listed by UNDERWRITERS LABORATORIES

Drawing Type:  
**Sales**



**Patio Elevation**

Scale: 3/32" = 1'-0"

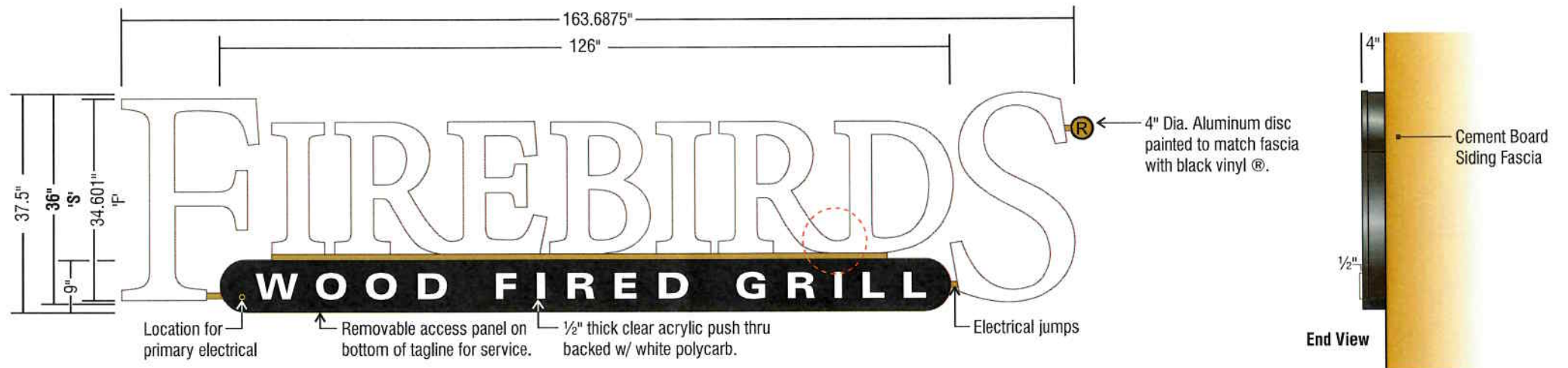
### Sign Notes

**Lighted channel letters** fabricated from aluminum (.040" returns [4" deep], 3mm ACM backs) with returns finished Black. Letters to have 3/16" white acrylic faces secured to returns via 1" Black trim cap. Letters internally lighted via Samsung Luna White LEDs. 'IREBIRD' letters will mount on top of a 1" x 3" aluminum tube that will house wiring and is painted to match the fascia. 'F' & 'S' letters will be jumped from tagline via low voltage wiring and conduit.

**Tagline cabinet** fabricated from aluminum (.090" face, .063" welded returns [4" deep]), all painted black. Face to have routed out 1/2" clear acrylic push thru copy backed with 1/8" white polycarb. Cabinet internally lighted via Samsung Luna White LEDs. Cabinet & letters will mount flush to the fascia via approved hardware. All power supplies & secondary wiring will come from inside the tagline cabinet.

### Color Notes

- 1/2" Clear acrylic - push thru copy (tagline)
- 2447 White acrylic - letter faces
- 7328 White polycarb - push thru backer panel (tagline)
- Black (vinyl) - ®
- Black coil stock - letter returns
- Black jewelite - letter trim cap
- Black (gloss) - tagline cabinet
- SW 6356 Copper Mountain(satin) - ® disc, electrical jumps & connecting tube wireway



**B2** (1) Readings of Flush Mounted Channel Letters (FB-FM-WT 36)  
Scale: 1/2" = 1'-0" 37.5" x 163.6875" = 42.6 Sq. Ft.

**Minutes of Birkdale Landing Neighborhood Meeting  
Held March 3, 2022 @ 6 pm  
Submitted by Nicole Tharrington**

**I. Individuals in Attendance:**

**On Behalf of Firebirds of Huntersville, LLC d/b/a Firebirds Wood Fired Grill:**

- Steve Kislow – Chief Executive Officer
- Marie Collins – Director of Administration and Licensing
- Nicole Tharrington – Vice President and General Counsel

**On Behalf of Huntersville:**

- Kayleigh Mielenz – Planner I, Town of Huntersville
- Brian Richards – Assistant Planning Director, Huntersville Planning Dept.

**On Behalf of the Developer/Landlord:**

- Sara Haight – Senior Property Manager, Fairway Management

**II. After introductions and rollcall, the meeting was called to order.**

**III. The attached PowerPoint was presented and discussed during which it was confirmed that all Birkdale Landing tenants were notified by Firebirds of its application for an amendment to the Birkdale Landing Master Sign Program in favor of a Special Sign District. It was further confirmed that no objections or other revisions were received. Additionally, Firebirds confirmed that Birkdale Landing tenants were invited to this meeting although none attended.**

**IV. Following the presentation and being there were no further questions, the meeting was adjourned at 6:20 pm.**

|                                      |
|--------------------------------------|
| <b>10.11 Master Signage Programs</b> |
|--------------------------------------|

Master signage programs establish two alternatives in providing latitude to develop appropriate signage designs for new or existing areas with special unifying features. The alternatives are the Special Sign Districts and the Planned Development Flexibility option. Special Sign Districts require approval by the Board of Commissioners following review and recommendation by the Huntersville Planning Board.

**10.11.1 Special Sign Districts**

For the purpose of establishing, enhancing, preserving, and developing the character, quality, and property values of areas of unique character and special development potential, districts in which signs are regulated by special provisions may be established subject to the following conditions:

- .1 As a prerequisite to the establishment of such a special sign district, it must be determined that the modified rules established for said district shall:
  - a) Preserve and enhance the special character of the particular area; and
  - b) Not contravene the intent of this ordinance; and
  - c) Cause no disturbance to neighboring property lying outside the proposed district.
- .2 Without changing the basic structure of this ordinance, the modified rules for a special sign district may impose sign regulations which provide greater latitude or more stringent limitations than those provided elsewhere in this ordinance.
- .3 The special sign district constitutes an overlay district and shall conform to the procedures of Article 11 for purposes of adoption and administration. Districts for which special sign regulations may be imposed include, but shall not be limited to the Town Center District, the Neighborhood Center District, the TND-U and TND-R districts.

**10.11.2 Planned Development Flexibility Option**

For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this ordinance may be approved by the Zoning Administrator, subject to the following:

- .1 The development is: a planned residential, nonresidential, or mixed-use development, 10 acres or greater in size; a hospital or other large-scale institutional complex; a large-scale cultural, civic or recreational facility; or a similar large-scale development.
- .2 A Master Sign Program that includes the following information in booklet form is submitted:
  - a) Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
  - b) Proposed number and location of signs.
  - c) Sign Illumination Plans.
  - d) Plans for landscaping or architectural features to be used in conjunction with such plans.
- .3 The proposed signs meet the following criteria:
  - a) All signs are coordinated in terms of design features.
  - b) The maximum amount of allowable wall mounted signage per individually constructed tenant space of one non-street fronting wall shall not exceed 25% of the area of the street fronting sign, up to a maximum of 32 square feet. This 25% increase may only be used on one non-street fronting wall.
  - c) Marquee and Hanging/Blade Signs may be increased by 25%, however they may project no more than 4 feet from the building wall, and no more than 3 feet over a sidewalk in a town-maintained right-of-way.
  - d) The maximum size of detached signs is not increased by more than 25%.
  - e) The number of detached signs along a street frontage does not exceed 3.
  - f) The maximum height of a detached sign does not exceed 12 feet.

- g) Multi-information directional signs are no greater than 16 square feet and are located in the interior of a development.

# Birkdale Landing Special Sign District

## Master Signage Program



March 2022

Master Signage Program  
Birkdale Landing  
Huntersville, NC

## **INTRODUCTION/OVERVIEW**

In an effort to create a visual conformity for the shoppes at Birkdale Landing, an overall Master Signage Program is proposed to safely inform and direct visitors to and within the Shopping Center. Well designed, creative graphics are important elements for attracting customers. The goal is to promote consistent, high quality signage, while maintaining tenant freedom.

Tenants are required to select signage options from the indicated options and submit design drawings prepared by a sign manufacturer or signage designer for approval by the Developer.

Developer must approve all signage to insure consistency in style, scale, materials, colors and graphics as well as locations and quantities, while allowing for a varied, exciting and interesting streetscape.

Signage shall be limited to types and locations indicated in this manual or as other approved by the Developer as long as other options comply with the Town of Huntersville sign ordinance.

No exposed neon type tubing shall be permitted on outside signs. Neon signs may be used inside of windows. No sky-facing lighting is permitted on outdoor signs.

Permanent signs requiring a permit must have sign permit approved by Town of Huntersville and Mecklenburg County Land Use and Environmental Service Agency (LUESA).

## **CONTENTS/SUMMARY**

- I. Directory Sign
- II. Tenants (less than 5,000 sf)
- III. Tenants (5,000 sf and greater)
- IV. Multi-Story Building
- V. ATM/Kiosk
- VI. Window and Door Graphics
- VII. Tenant Addresses
- VIII. Building Addresses
- IX. Other Signs
- X. Signage Criteria

## SECTION I - DIRECTORY SIGN

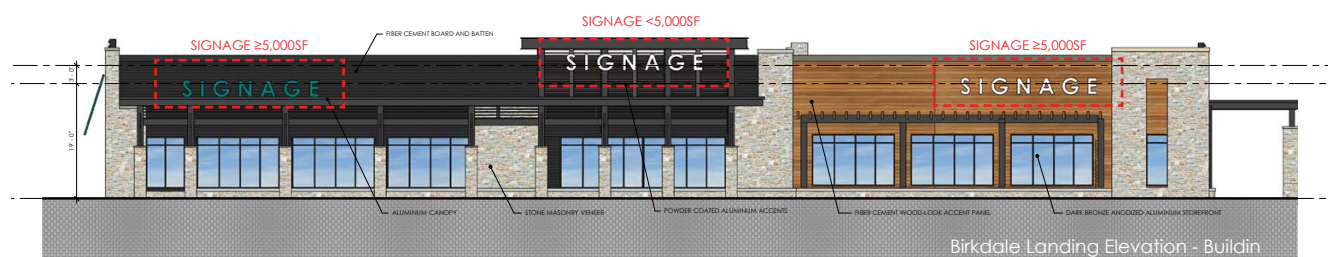
One directory sign will be allowed per street frontage. A total of two directory signs will be allowed as long as the separation distance exceeds 1000' and the signs are located within 50' of their primary street frontage. The exact placement of the directory sign has not been determined, however it will be located at least 5' behind the right-of-way and out of the intersection sight distance. The directory sign will have a maximum sign face area of 120 sq ft and a maximum height of 12' (excluding sign cap). The directory sign will be similar to the examples below, provided however the exact tenant panel layout, materials and color are subject to final Developer design and Town approval.



## SECTION II - TENANTS (Less than 5,000 sq ft)

### A. Primary Signs

- Primary tenant signs to be located on street side of lease space below the parapet.
- Individual channel letters (48" maximum for single line signs) mounted to wall on a raceway illuminated individually.
- If tenant desires more than one line, then the max letter height will be of the discretion of the Landlord
- Font style, color graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the signs subject to Developer's approval.
- Surface mounted raceway to be painted to match the color of the adjacent wall surface.
- The Maximum Signage area shall be 10% of the tenant's wall face fronting a street (not to exceed 128 sq ft).



## B. Secondary Signs

Tenants may elect to use any of the following sign options:

- Where applicable and approved by the Developer, tenants may install a secondary sign at the back of the building (parking lot side). The maximum size of all parking lot secondary signs shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign) of the building, and in no case shall the sign exceed 32 SF. A parking lot secondary sign requires a square footage transfer from the primary sign.
- Where applicable and approved by the Developer, tenants that occupy corner/end cap spaces that face a plaza space may have a sign on the side of the building, allowed in addition to parking lot secondary sign. The maximum size of all side secondary signs located on a corner/end cap space shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign), and in no case shall the sign exceed 32 SF. A side secondary sign requires a square footage transfer from the primary sign.
- The combined SF of all secondary signs for an individual tenant shall not exceed 32 SF.
- All specifications including, but not limited to font style, color, graphics, materials, raceway, etc. shall be same as the "Primary Signs".



### **C. Blade Signs**

- Each tenant may, subject to Developer's discretion, have one blade sign per business bay for pedestrian visibility.
- Tenant's double-faced blade sign is to attach beneath the canopy, on building columns and/or exterior horizontal ceilings
- Overall area of blade sign can not exceed 12 sq ft.
- A minimum 8' clearance between the bottom of the blade sign and the sidewalk must be maintained.
- Blade sign may project no more than 4' from the building wall.
- Blade sign may project up to 3' over a sidewalk to the R-O-W.
- Metal support elements and decorative metal framework, colors and materials to be approved by the Developer.
- Blade signed may be illuminated via a concealed lighting trough installed in the mounting bracket.
- External lighting is not allowed.



### **D. Shipping & Employee Entrance Identification**

- Shipping and employee entrance identification signage at rear entrance to store - standard 24" x 24" painting 1/8" aluminum plate with 4" vinyl letters. Must be mounted conspicuously near rear door for easy identification.

## **SECTION III - TENANTS (5,000 sq ft and greater)**

### **A. Primary Signs**

- Primary tenant signs to be located on street side of lease space below the parapet.
- Individual channel letter (48" maximum for single line signs) mounted to wall on a raceway and illuminated individually. If tenant desires more than one line, then the max letter height will be of the discretion of the Developer.
- Font style, color, graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the sign subject to Developer's approval.
- Surface mounted raceway to be painted to match the color of the adjacent wall surface.
- The maximum signage area shall be 10% of tenant's wall face fronting a street (not to exceed 128 sq ft)



### **B. Secondary Signs**

- Tenants may elect to use any of the following sign options. The combined SF of all secondary signs for an individual tenant shall not exceed 32 SF.
- Where applicable and approved by the Developer, tenants may install a secondary sign at the back of the building (parking lot side). The maximum size of all parking lot secondary signs shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign) of the building, and in no case shall the sign exceed 32 SF. A parking lot secondary sign requires a square footage transfer from the primary sign.
- Where applicable and approved by the Developer, tenants that occupy corner/end cap spaces that face a plaza space may have a sign on the side of the building, allowed in addition to parking lot secondary sign. The maximum size of all side secondary signs located on a corner/end cap space shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign), and in no case shall the sign exceed 32 SF. A side secondary sign requires a square footage transfer from the primary sign.
- All specifications including, but not limited to, font style, color, graphics, materials, raceway, etc. shall be the same as the "Primary Signs".
- Additional signage may display the names of other secondary tenants operating within this tenant's leased premises, such as, but not limited to, a bank or a coffee shop.



### **C. Blade Signs**

- Each tenant may, subject to Developer's discretion, have one blade sign per business bay for pedestrian visibility.
- Tenant's double-faced blade sign is to attach beneath the canopy, on building columns and/or pedestrian visibility.
- Overall area of blade sign can not exceed 12 sq ft.
- A minimum 8' clearance between the bottom of the blade sign and the sidewalk must be maintained
- Blade sign may project no more than 4' from the building wall.
- Blade sign may project up to 3' over a sidewalk on the R-O-W.
- Metal support elements and decorative metal framework, colors and materials to be approved by Developer.
- Blade signs may be illuminated via a concealed lighting trough in the mounting bracket. External lighting is not allowed.



### **D. Shipping & Employee Entrance Identification**

- Shipping and employee entrance identification signage at rear entrance to store - standard 24" x 24 " painted 1/8" aluminum plate with 4" vinyl letters. Must be mounted conspicuously near rear door for easy identification.

## **SECTION IV - MULTISTORY BUILDING**

### **1. First Floor Tenants**

- All first floor tenants are subject to the same signage requirements as outlined in Section II (A-D) and Section III (A-D) of this Master Signage Program.

### **2. Upper Floor Tenants**

#### **A. Primary Signs**

- Primary tenant signs must be on street side of lease space.
- Individual channel letters (48" maximum for single line signs) mounted to wall on a raceway and illuminated individually.
- If tenant desires more than one line, then the max letter height will be of the discretion of the Developer.
- Font style, color, graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the sign subject to Developer's approval.
- Surface mounted raceway to be painted the color of the adjacent wall surface.
- Sign to be located above windows of upper level lease space.
- The maximum signage area shall be 10% of any tenant's face fronting a street (not to exceed 128 sq ft).

#### **B. Secondary Signs**

- Tenants may elect to use any of the following sign options.
- Secondary sign at the back of building (parking lot side) is permitted subject to limitations described in this Master Signage Program.
- Tenants that occupy corner/end cap spaces may have, in addition to a secondary sign on the back of the building, a sign on the side of the building.
- The size of all secondary signs shall be the same as outlined in Section II (B) and Section III (B) of this Master Signage Program.
- Individual aluminum cut (pin) letter mounted on a metal frame. Metal frame color to match the adjacent wall surface. Signs will not be illuminated.

#### **C. Internal Directory/Signage**

- Developer will provide a tenant directory indicating each tenant name and suite number. The tenant directory sign will be located inside the main entrance on the first floor of the multi-story building.
- Developer will also have tenant names and suite numbers displayed outside of each individual upper level suite.
- All on premise directional signs shall comply with the Town of Huntersville zoning ordinance.



#### **D. Blade Signs**

- Each tenant may, subject to Developer's discretion, have one blade sign per business bay for pedestrian visibility.
- Tenant's double-faced blade sign is to attach beneath the canopy, on building columns and/or pedestrian visibility.
- Overall area of blade sign can not exceed 12 sq ft.
- A minimum 8' clearance between the bottom of the blade sign and the sidewalk must be maintained
- Blade sign may project no more than 4' from the building wall.
- Blade sign may project up to 3' over a sidewalk on the R-O-W.
- Metal support elements and decorative metal framework, colors and materials to be approved by Developer.
- Blade signs may be illuminated via a concealed lighting trough in the mounting bracket. External lighting is not allowed.

#### **SECTION V - ATM/KIOSK**

ATM/Kiosk tenants shall be allowed signage (not to exceed 16 square feet) that will be substantially similar to the examples shown.



## **SECTION VI - WINDOW AND DOOR GRAPHICS**

- Permanent tenant identification information may appear on storefront windows and glass doors as additional signage.
- The overall dimensions of all graphics on storefront windows and doors must be less than 10% of area storefront glass area facing the street.
- Window graphics are to be made of cut vinyl applied to inside of window. Colors be approved by Developer.
- Temporary signage in window area to be approved by Developer.



## **SECTION VII- TENANT ADDRESSES**

- The following Tenant Addressing criteria applies to all tenants occupying retail/office space. This signage is provided by the Developer
- Letters and/or Numerals must be the least of the height required by the Fire Marshal and be made of a reflective material (for easy nighttime viewing) and must appear on the front of the building in a location that is clearly visible from the street when traveling at the posted speed limit.
- Address information may appear directly on the front door as long as the door is not to remain ajar for any length of time.
- Address information must appear close to the front entrance but be as conspicuously visible as possible.
- Tenant address is limited to a maximum area of 3 sq ft, if not located in a window.

## **SECTION VIII- BUILDING ADDRESSES**

- The following Building Addressing criteria applies to buildings within Shoppes at Birkdale Crossing, and are provided by Developer.
- Letters and/or Numerals must be the least of the height required by the Fire Marshal and be made of a reflective material (for easy nighttime viewing) and must appear on the front the building in a location that is clearly visible from the street when traveling at the posted speed limit.
- Address information must appear on the street side of the building and be as conspicuously visible as possible.
- Building address is limited to a maximum area of 3 sq ft.

## **SECTION IX - OTHER SIGNS**

Any sign that is not mentioned in this Master Signage Program, must comply with the Town of Huntersville zoning ordinance.

## **SECTION X - SIGNAGE CRITERIA**

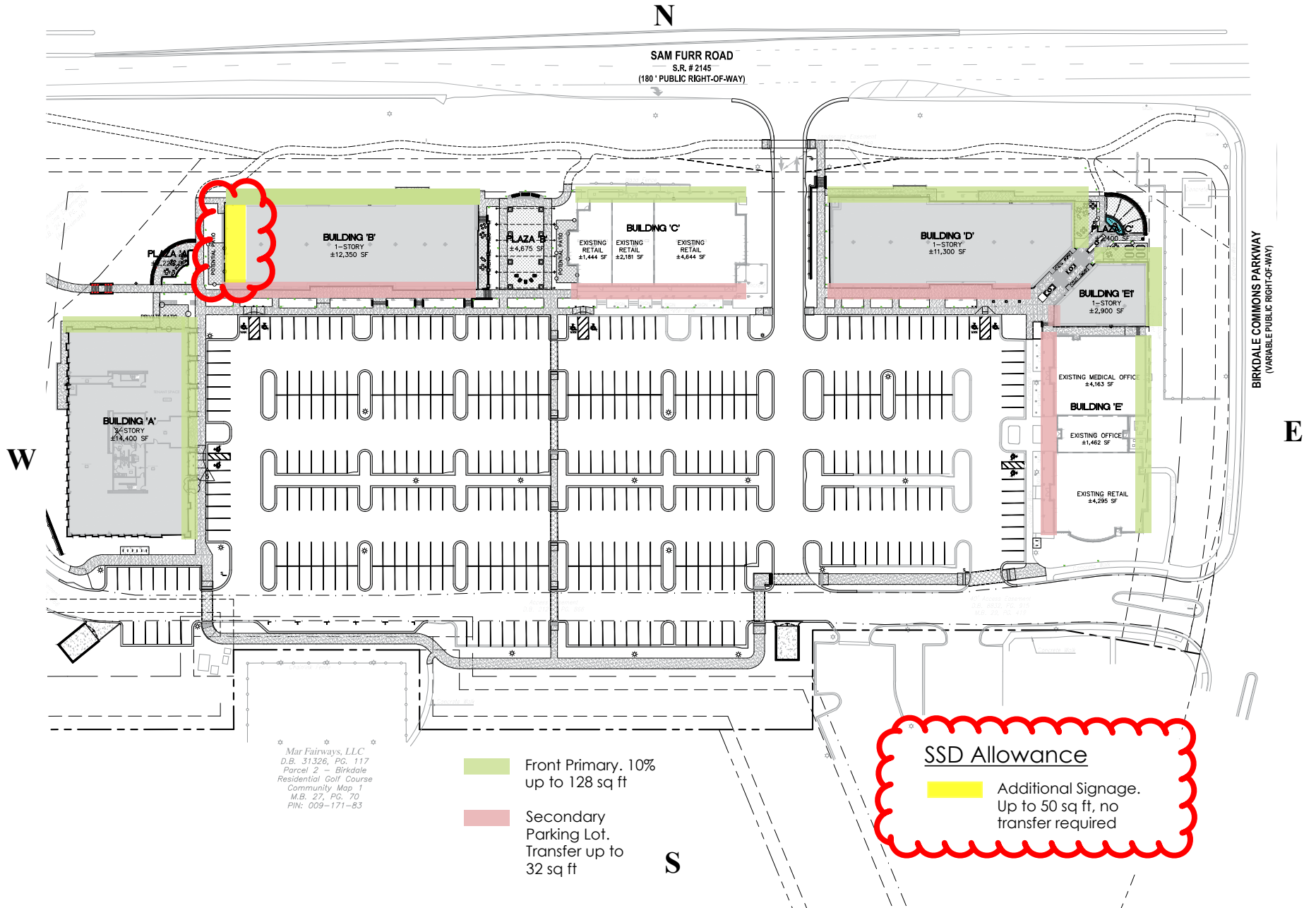
The purpose of the Graphic & Signage Criteria is to promote consistent, high quality signage, while allowing the Tenant freedom to create unique graphics that are consistent with the overall store design.

1. All signs and location of those signs are subject to the approval of the Landlord and all applicable codes and ordinances having jurisdiction over the Shopping Center, including but not limited to, Underwriters Laboratories' Standard for Electric Signs (UL 2161), the National Electric Code and local building codes. Landlord's approval does not constitute a warranty or representation that the sign is safe or otherwise in compliance any applicable codes or ordinances.
2. Tenant is solely responsible for any permits and/or fees, design, construction and installation required or otherwise associated with Tenant's signs.
3. Tenant's sign contractor shall provide Landlord a written Certificate of Liability Insurance with a minimum of \$1,000,000 coverage and Landlord named as the insured before installation of the sign. Tenant's sign contractor cannot work on the premises of the Shopping Center without proof of liability insurance.
4. Tenant is required to submit one set of shop drawings to the Landlord for approval prior to fabrication of sign work. Such drawing should include a section through letter as well as an elevation view of the storefront drawn to scale, indicating the proposed sign location. This drawing is to indicate size, design, color and construction of letters. Consideration of signs which do not conform to the above restrictions will be given only upon submittal of a sign shop drawing. No sign shall be erected without written approval of Landlord.
5. The advertising content of all signs shall be limited to letters designating the store name or type of store only. All designations of the store type shall be by general descriptive terms and shall not include any specification of the merchandise offered for sale therein.
6. All Tenant signs are to be individually lit channel letters, mounted on a single (or double) metal raceway, approved by Landlord, and shall consist of the store name/logo only. All letters are to be internally lit with neon, have no exposed neon. Exterior letter returns and trim caps shall be black.
7. Signage shall be structurally sound construction for its intended use as a fascia sign. All corners shall be fabricated, welded and ground smooth. Returns of letters shall be fabricated from .040 aluminum and .063 aluminum backs. Return depths shall be 4 ½". Attach letters to a raceway that shall be fabricated from .063 aluminum with angle iron headers. No exposed wiring, conduit or junction boxes are allowed. All primary electrical connections must be made behind the building. Raceway shall house all secondary wiring. Raceway shall not extend

more than 8" from the face of the building and be no taller than 8" without prior approval by Landlord. Color of the raceway shall be consistent with the EIFS system installed on the face of the Shopping Center.

8. The translucent colored acrylic shall be Plexiglass G sheet or equivalent. The acrylic shall be 3/16" thickness. No transparent letter faces are permitted.
9. Hardware for fabrication and installation shall be of non-corrosive type or plated.
10. Signage shall be centered above storefront, unless prior approval has been granted by landlord. The maximum length of tenants lettering may be 70% of the frontage width, projected from the sidewalls of each lease.
11. The sign contractor shall remove all debris accumulated due to his work from the Shopping Center. Any damage to the Landlord's premises during sign installation and/or maintenance shall be Tenant's sole responsibility. Sign contractor or Tenant shall promptly reimburse the Landlord for all expenses incurred as a result of such damage.
12. No rooftop or other signs will be permitted on the building
13. Tenant lettering on doors, windows, or show windows may not be illuminated and may not exceed 2" in height. Lettering to be black. No decal, symbol, etc shall be affixed to Tenant's doors, windows, or show windows except with special written permission of the Landlord.
14. Tenant shall not employ paper signs to be applied to the interior or exterior faces of the store front glass or other materials.
15. Tenant shall not employ any flashing action, moving action or audible signs.
16. Any sign, notice, or graphic, located within the interior of the Premises and easily legible from the storefront requires the prior written approval of Landlord.
17. Light leaks in sign letters will not be allowed and must be repaired promptly by the Tenant.
18. If the Tenant has a rear exit/service door, this doorway shall be identified with Tenant's name, per Landlord's specifications, using 2" high vinyl helevetic medium letters, indicating the Tenant's name and address.
19. Each Tenant shall be permitted to place upon each entrance not more than 144 square inches of gold leaf or decal lettering, indicating hours of business, emergency telephone numbers, etc. Size of letters not to exceed 1" in height.
20. Tenant shall be responsible for all work associated with the installation of the sign, including permits for sign, and shall execute such work in accordance with applicable codes and to the reasonable satisfaction of the Landlord.

# BIRKDALE LANDING SIGNAGE LOCATIONS



# Birkdale Landing

## Master Signage Program



February 2020

MASTER SIGN PROGRAM APPROVED AS NOTED

**11/02/2021**

Agency: Town of Huntersville, Planning Department  
Note: This review was completed based on the information provided by the applicant. This review was done using the minimum acceptable standards of the applicable Town Ordinances.



*Kayleigh Hilary*

## B. Secondary Signs

Tenants may elect to use any of the following sign options:

- Tenants may install a secondary sign at the back of the building (parking lot side), subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the back of the buildings (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 16 square feet. The sign shall not exceed 32 square feet.
- Tenants that occupy corner/end cap spaces that face a parking lot or plaza space may have, in addition to a secondary sign on the back of the building, a sign on the side of the building subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the side of a building that faces a parking lot (where applicable and approved by the side of the building that faces a parking lot (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 16 square feet. The sign shall not exceed 32 square feet.
- All specifications including, but not limited to font style, color, graphics, materials, raceway, etc. shall be same as the "Primary Signs".



## **SECTION III - TENANTS (5,000 sq ft and greater)**

### **A. Primary Signs**

- Primary tenant signs to be located on street side of lease space below the parapet.
- Individual channel letter (48" maximum for single line signs) mounted to wall on a raceway and illuminated individually. If tenant desires more than one line, then the max letter height will be of the discretion of the Developer. Font style, color, graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the sign subject to Developer's approval.
- Surface mounted raceway to be painted to match the color of the adjacent wall surface.
- The maximum signage area shall be 10% of tenant's wall face fronting a street (not to exceed 128 sq ft)



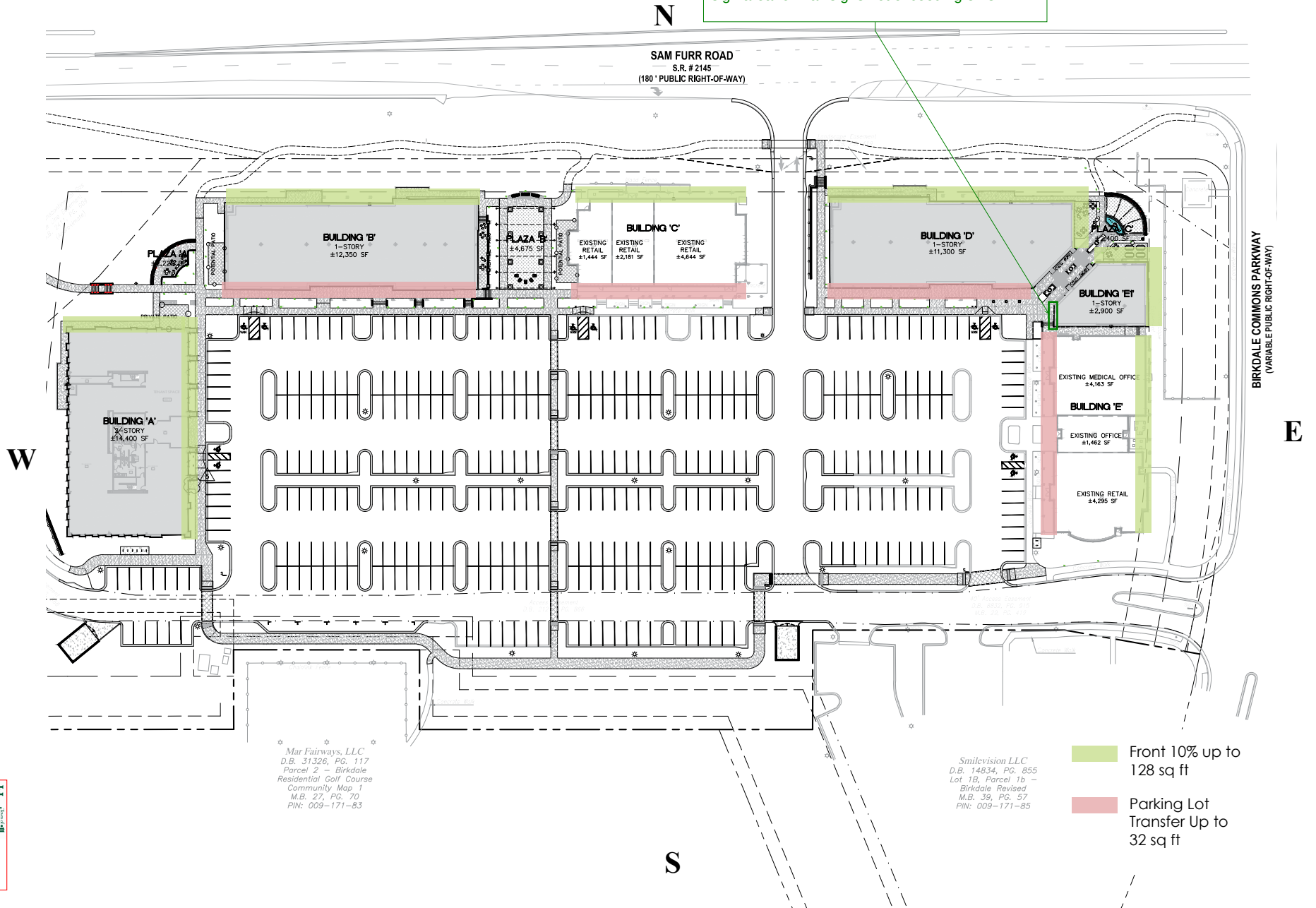
### **B. Secondary Signs**

- Tenants may elect to use any of the following sign options.
- Tenants may install a secondary sign at the back of the building (parking lot side), subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the back of the building (parking lot side), subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the back of the building (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 32 square feet. The sign shall not exceed 32 square feet.
- Tenants that occupy corner/end cap spaces that face a parking lot or plaza may have, in addition to a secondary sign on the back of the building, a sign on the side of the building subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the side of the building that faces a parking lot (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 16 square feet. The sign shall not exceed 32 square feet.
- All specifications including, but not limited to, font style, color, graphics, materials, raceway, etc. shall be the same as the "Primary Signs".
- Additional signage may display the names of other secondary tenants operating within this tenant's leased premises, such as, but not limited to, a bank or a coffee shop.



# BIRKDALE LANDING SIGNAGE LOCATIONS

See emails between Staff and Fairway Investments between 1/18/2021 and 1/19/2021. This facade is allowed to receive a transfer of sign area for wall signs not exceeding 32 sf.



**Town of Huntersville  
Planning Board  
April 26, 2022**

**To:** Town Board

**From:** Nathan Farber, Planner I

**Date:** April 26, 2022

**Subject:** #TA22-03

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**EXPLAIN REQUEST:**

Consider the recommendation of Text Amendment #TA22-03, a request by the Town of Huntersville Planning Department to amend Article 8.9.1 and 12.2.2 related to clear sight triangles in order to comply with HB 489.

**ACTION RECOMMENDED:**

Make Recommendation

**FINANCIAL IMPLICATIONS:**

NA

**ATTACHMENTS:**

1. TA22-03 Staff Report PB
2. Attachment 1 Text Amendment Application
3. Attachment 2 Ordinance

## TA 22-03 – Clear Sight Triangle at Street Intersection

### PART 1: DESCRIPTION

TA 22-03 is a request by the Huntersville Planning Department to amend the Huntersville Zoning Ordinance Articles 8.9.1 and 12.2.2 relating to sight distance triangles. The purpose of the amendment is to comply with the state HB 489 changes to 160A-306 of the State Statutes.

### PART 2: BACKGROUND

The North Carolina General Assembly passed House Bill 489 in 2021 amending Chapter 160A-306 Building Setback Lines which now reads as follows:

*§ 160A-306. Building setback lines.*

*(b) Any setback line shall be designed:*

- (1) To promote the public safety by providing adequate sight distances for persons using the street and its sidewalks, lessening congestion in the street and sidewalks, facilitating the safe movement of vehicular and pedestrian traffic on the street and sidewalks and providing adequate fire lanes between buildings, and buildings.*
- (2) To protect the public health by keeping dwellings and other structures an adequate distance from the dust, noise, and fumes created by traffic on the street and by insuring an adequate supply of light and air.*
- (3) To provide that, notwithstanding subsection (a) of this section, measurements for sight distances at street intersections, including sight triangles, must begin within the roadway or edge of pavement of a proposed or existing street.**

The updated language serves to define where sight distances at street intersections will be measured from. This language will not change the way the Town currently measures a sight triangle at intersections. To align with House Bill 489 Town Staff has included the new language into Article 8.9.1-Clear Sight Triangle at Intersections and into the Sight Distance Triangle definition within Article 12.2.2- Sign Definitions.

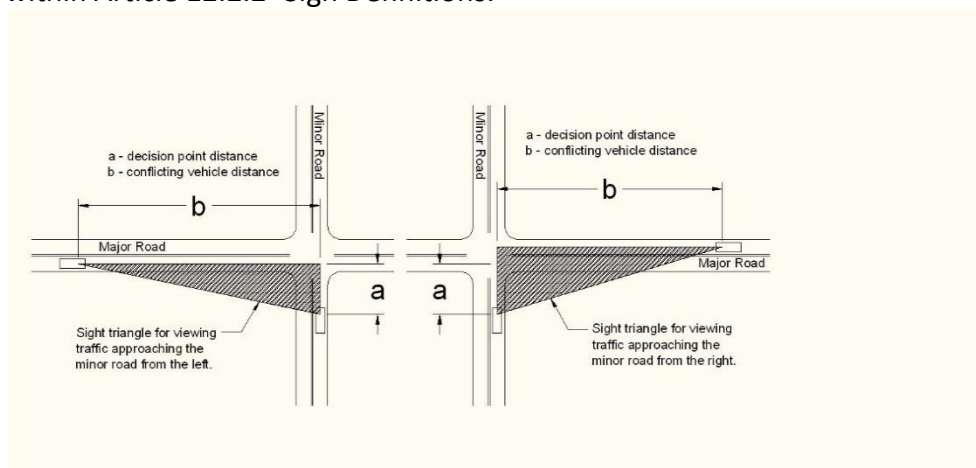


Figure 1 Example from Article 8.9.1

**PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN**

TA22-03 is consistent with Policy T-4 of the Huntersville 2040 Community Plan

**Policy T-4: Improve safety for bicyclists, pedestrians, and motorists.**

**PART 4: STAFF RECOMMENDATION**

Staff recommends approval of TA22-03 (see Part 3).

**PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD**

The Huntersville Ordinances Advisory Board (HOAB) recommended the request on April 7, 2022.

**PART 6: PUBLIC HEARING**

April 4, 2022

**PART 7: PLANNING BOARD RECOMMENDATION**

April 26, 2022

**PART 8: ATTACHMENTS**

1. Text Amendment Application
2. Ordinance Language

## PART 9: STATEMENT OF CONSISTENCY – TA22-03

| <i>Planning Department</i>                                                                                                                                                                                                                                                                                                                                                                        | <i>Planning Board</i>                                                                                                                                                                                                                                                                                                                                          | <i>Board of Commissioners</i>                                                                                                                                                                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>APPROVAL:</b> In considering the proposed amendment TA22-03, Planning staff recommends approval based on the amendment being consistent Policy T-4 of the 2040 Huntersville Community Plan.</p> <p><i>It is reasonable and in the public interest to amend the Zoning Ordinance because it is necessary to maintain land development regulations in compliance with State Statutes.</i></p> | <p><b>APPROVAL:</b> In considering the proposed amendment TA22-03, Planning Board recommends approval based on the amendment being consistent with <u><b>(insert applicable plan reference)</b></u></p> <p><i>It is reasonable and in the public interest to amend the Zoning Ordinance because... (Explain)</i></p>                                           | <p><b>APPROVAL:</b> In considering the proposed amendment TA22-03, the Town Board recommends approval based on the amendment being consistent with <u><b>(insert applicable plan reference)</b></u></p> <p><i>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</i></p>                                    |
| <p><b>DENIAL:</b> N/A</p>                                                                                                                                                                                                                                                                                                                                                                         | <p><b>DENIAL:</b> N/A In considering the proposed amendment TA22-03, the Planning Board recommends denial based on the amendment being <u><b>(consistent OR inconsistent)</b></u> with <u><b>(insert applicable plan reference)</b></u>.</p> <p><i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i></p> | <p><b>DENIAL:</b> In considering the proposed amendment TA22-03, the Town Board recommends denial based on the amendment being <u><b>(consistent OR inconsistent)</b></u> with <u><b>(insert applicable plan reference)</b></u>.</p> <p><i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i></p> |



## Text Amendment Application

Date of Application 2/1/2022

### Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

### Type of Change

\_\_\_\_ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

\_\_\_\_ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

### Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 8.9 & 12.2 Section(s): 8.9.1 & 12.2.2

#### Current Ordinance

Please see attached

#### Proposed Text

Please see attached

#### Reason for Proposed Change

To update article 8.9.1 and 12.2.2 to comply with HB 489. HB 489 has added new language to state statutes 160A-306 Building setback lines.

Attach additional pages if needed.

**NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.**

## Applicant

Printed Name Jack Simoneau

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

Signature Jack Simoneau Date 2-1-22

Title Planning Director Email jsimoneau@huntersville.org

Address of Applicant PO Box 664 Huntersville NC 28070

## Property Owner (if different than applicant)

\* Printed Name \_\_\_\_\_

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_ Email \_\_\_\_\_

Address of Property Owner \_\_\_\_\_

\* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

## Contact Information

**Town of Huntersville  
Planning Department**  
PO Box 664  
Huntersville, NC 28070

Phone: 704-875-7000  
Fax: 704-875-6546  
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078  
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: \_\_\_\_\_

Staff Initials: \_\_\_\_\_

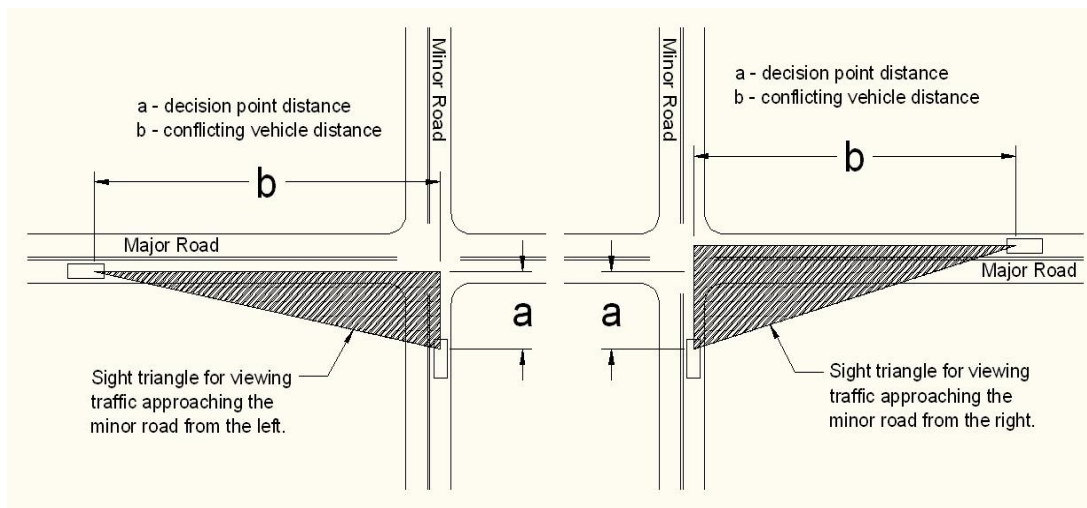
## AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE

### ZONING ORDINANCE

**Section 1. BE IT ORDAINED** by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 8.9.1, Clear Sight Triangle at Street Intersection, is hereby amended as follows:

#### 8.9 Clear Sight Triangle at Street Intersection

.1 A clear view at each corner of an intersection of public or private streets or driveways shall be maintained by establishing a “sight triangle” that is free of obstructions that may block a driver’s view. The extent of the required sight triangle varies according to the posted speed and traffic control device(s) of the streets forming the intersection. Below is a general figure from the American Association of State Highways and Transportation Officials (AASHTO) “A Policy on Geometric Design of Highways and Streets” which depicts the required sight triangle area to be free of obstructions at an intersection. **Measurements for sight distances at street intersections, including sight triangles, shall begin within the roadway or edge of pavement of a proposed or existing street as required by the Town’s Engineering Standards and Procedures Manual.**



A sight triangle easement may need to be recorded on the property plat if the sight triangle does not fall completely within the recorded right-of-way. Should the sight triangle cross private property, the developer shall secure permanent sight triangle easement or right-of-way from all private property owners within the sight triangle prior to preliminary/construction plan approval.

**Section 2. BE IT ORDAINED** by the Board of Commissioners of the Town of Huntersville, North Carolina, that 12.2.2, Sign Definitions, is hereby amended as follows:

**Sight Distance Triangle.** The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. **Measurements for sight distances at street intersections, including sight triangles, shall**

**begin within the roadway or edge of pavement of a proposed or existing street as required by the Town's Engineering Standards and Procedures Manual.**

**Section 3. Effective Date.**

This ordinance shall become effective upon the date of adoption.

**Town of Huntersville  
Planning Board  
April 26, 2022**

**To:** Town Board

**From:** Nathan Farber, Planner I

**Date:** April 26, 2022

**Subject:** #TA22-04

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**EXPLAIN REQUEST:**

Consider the request for #TA22-04, a request by the Town of Huntersville Planning Department to remove the special use requirement for street facing solar panels in Article 9.54.1 and to reorganize and clean up Article 9.54 to bring the ordinance into full compliance with State Statute 160D-914.

**ACTION RECOMMENDED:**

Make Recommendation

**FINANCIAL IMPLICATIONS:**

NA

**ATTACHMENTS:**

1. TA22-04 Staff Report Planning Board
2. Attachment 2 Ordinance Language
3. Attachment 3 160D-914
4. Attachment 1 Amendment Application

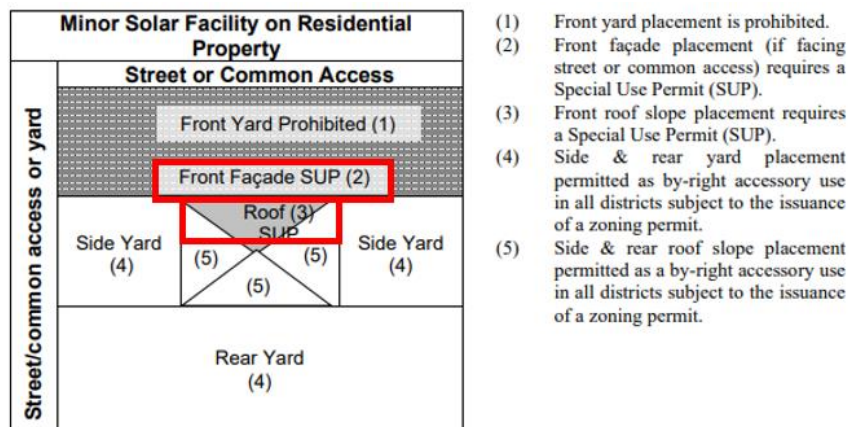
## TA 22-04 – Article 9.54 Solar Energy Facilities

### PART 1: DESCRIPTION

TA 22-04 is a request by the Huntersville Planning Department to amend the Huntersville Zoning Ordinance Articles 9.54. The purpose of the amendment is to remove all special use permit requirements from Article 9.54.1 Minor Solar Energy facilities. Town staff has also worked with the Town Attorneys to reorganize and clean up language while also bringing language into full compliance with 160D-914.

### PART 2: BACKGROUND

Minor solar energy facilities/solar panels **fronting a public street for both residential and commercial properties** require a Special Use Permit approved by the Huntersville Town Board with a recommendation from the Planning Board. Other minor solar facilities, such as those that are built on the side or rear of the home, are approved administratively by staff (below). Since adoption of solar energy provisions in 2013, only three special use permits have been applied for, though two of those have occurred within the past three months (all approved). Staff has seen an increased interest in solar panels that will likely continue.



In addition to more interest in solar panel installations, there can be situations where one house has solar panels placed on side facing roofs (approved by staff) AND front facing roofs (requires special use permit) as can be seen in the photo below. Changing the special use permit requirement to an administrative staff approval will remove the unnecessary burden that the special use permit process places on applicants (three-month approval process for a special use permit; three-business days approval for zoning permit).



Town staff has also worked with the Town Attorney to reorganize and clean up language while also bringing language into full compliance with State Statute 160D-914. The requirements of Article 9.54.2 Major Solar Energy Facilities will stay the same, keeping the special use permits requirement, while reorganizing the section to separate residential and commercial facilities.

### **PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN**

EOS-9.1: Promote the use of energy efficient building design and neighborhood design.

**Comment:** The proposed text amendment would make it easier on applicants to apply for minor solar energy facilities within the Town of Huntersville.

### **PART 4: STAFF RECOMMENDATION**

Planning Staff recommends approval of the proposed text amendment TA22-04 (see Part 9).

### **PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD**

The Huntersville Ordinances Advisory Board (HOAB) recommended approval on March 3<sup>rd</sup> with a unanimous vote (8-0).

### **PART 6: PUBLIC HEARING**

Public Hearing occurred on April 4, 2022

### **PART 7: PLANNING BOARD RECOMMENDATION**

April 26, 2022

### **PART 8: ATTACHMENTS**

1. Text Amendment Application
2. Ordinance Language
3. State Statutes 160D-914

## PART 9: STATEMENT OF CONSISTENCY – TA22-04

| <i>Planning Department</i>                                                                                                                                                                                                                                                                                                                                                                                                                     | <i>Planning Board</i>                                                                                                                                                                                                                                                                                                                                          | <i>Board of Commissioners</i>                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>APPROVAL:</b> In considering the proposed amendment TA22-04, Planning Staff recommends approval based on the amendment being consistent with EOS-9.1 of the Huntersville 2040 plan and bringing the ordinance into full compliance with 160D-914.</p> <p><i>It is reasonable and in the public interest to amend the Article 9.54 because it removes the unnecessary burden that the special use permit places on the applicant.</i></p> | <p><b>APPROVAL:</b> In considering the proposed amendment TA22-04, Planning Board recommends approval based on the amendment being consistent with <u><b>(insert applicable plan reference)</b></u></p> <p><i>It is reasonable and in the public interest to amend the Zoning Ordinance because... (Explain)</i></p>                                           | <p><b>APPROVAL:</b> In considering the proposed amendment TA22-04, the Town Board recommends approval based on the amendment being consistent with <u><b>(insert applicable plan reference)</b></u></p> <p><i>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</i></p>                                    |
| <p><b>DENIAL:</b> N/A</p>                                                                                                                                                                                                                                                                                                                                                                                                                      | <p><b>DENIAL:</b> N/A In considering the proposed amendment TA22-04, the Planning Board recommends denial based on the amendment being <u><b>(consistent OR inconsistent)</b></u> with <u><b>(insert applicable plan reference)</b></u>.</p> <p><i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i></p> | <p><b>DENIAL:</b> In considering the proposed amendment TA22-04, the Town Board recommends denial based on the amendment being <u><b>(consistent OR inconsistent)</b></u> with <u><b>(insert applicable plan reference)</b></u>.</p> <p><i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i></p> |

**AN ORDINANCE TO AMEND ARTICLE 9.54 OF THE ZONING ORDINANCE TO  
REMOVE SUP REQUIREMENTS FROM MINOR SOLAR ENERGY FACILITIES AND TO  
BRING THE ARTICLES LANGUAGE INTO COMPLIANCE WITH 160D-914**

**Section 1.** Be it ordained by the Board of Commissioners of the Town of Huntersville that article 9.54 of the Zoning Ordinance is hereby amended as follows:

~~Any major or minor solar energy facility shall require approval from all applicable state and federal agencies as well as the affected energy provider.~~

~~.1 Minor Solar Energy Facilities:~~

~~a. Residential Property (refer to illustration):-~~

- ~~1. Residential Property (refer to illustration): Minor solar facilities shall be allowed in accordance with the provisions below. However, these conditions will be waived if they prevent reasonable use of solar collectors as provided in GS 160D-914.~~

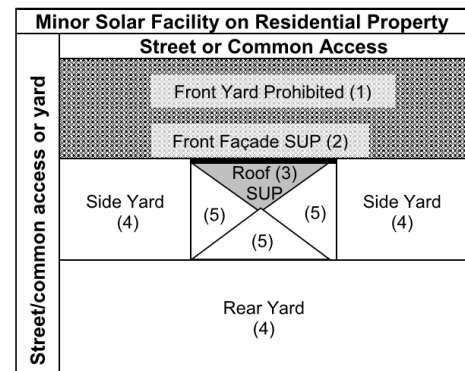
~~(1) Front yard placement is prohibited.~~

~~(2) Front façade placement (if facing street or common access) requires a Special Use Permit (SUP).~~

~~(3) Front roof slope placement requires a Special Use Permit (SUP)~~

~~(4) Side and rear yard placement permitted as by right accessory use in all districts subject to the issuance of a zoning permit.~~

~~(5) Side and rear roof slope placement permitted as a by right accessory use in all districts subject to the issuance of a zoning permit.~~



~~b. Non-Residential Property:~~

~~(1) Minor free-standing solar facilities on non-residential property shall require a Special Use Permit (SUP).~~

~~(2) Minor rooftop solar facilities on non-residential property: Facilities on flat roofs, facilities on roof slopes not facing a street and building integrated solar panels on roof slopes facing the street that are not noticeable are permitted by right in any zoning~~

~~district. All other roof mounted solar panels facing street shall require a Special Use Permit (SUP).~~

~~c. Minor free-standing facilities must comply with accessory structure setbacks and spacing.~~

~~d. Minor free-standing facilities shall be a maximum of 5 feet in height as measured from the grade at the base of the structure to the apex of the structure.~~

~~e. Minor rooftop solar energy facilities shall not be considered as rooftop equipment on any building type and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.~~

## ~~2 Major Solar Energy Facilities~~

~~a. Shall require the issuance of a Special Use Permit and in addition to the Special Use Permit requirements found in [Article 11.4.10](#) shall include the following:~~

~~(1) An existing features plan as described in the Subdivision Ordinance [Article 6.300.1.14](#) is required. Placement of solar panels shall be based on preserving existing features to the extent practical.~~

~~(2) Major solar energy facilities are exempt from any parking requirements in the Huntersville Zoning Ordinance if there is no commercial or office building component.~~

~~(3) Setbacks:~~

~~i. Shall meet the minimum required setbacks for the underlying zoning district for installations in the R and TR zoning districts.~~

~~ii. Shall be a minimum of 20 feet from any property line in the SP zoning district.~~

~~(4) Height:~~

~~i. Free standing major solar facilities shall be a maximum of 8 feet in height as measured from the grade at the base of the structure to the apex of the structure.~~

~~(5) The minimum lot size requirement for major solar facilities is 10 acres.~~

~~b. Town of Huntersville to be given copies of any lease agreement and plan for removal of facility/equipment.~~

~~c. Glare resistant solar panels shall be used if the solar facility is adjacent to any airport.~~

d. ~~Rooftop major solar energy facilities should not be considered as rooftop equipment on any building type and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.~~

Any major or minor solar energy facility shall require approval from all applicable state and federal agencies as well as the affected energy provider.

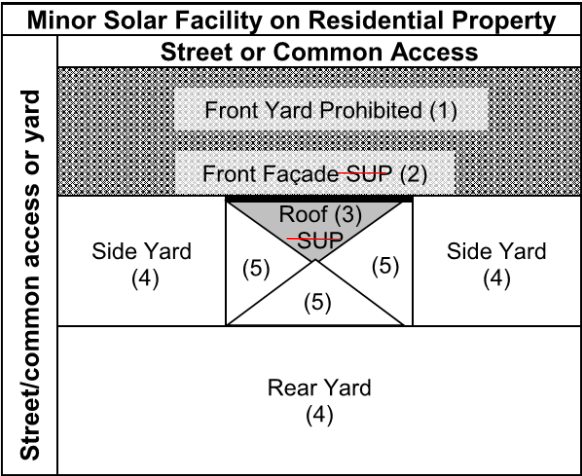
**.1 Minor Solar Energy Facilities.**

**a. General Requirements for Minor Solar Energy Facilities.**

1. All minor free-standing facilities must comply with accessory structure setbacks and spacing as set forth in Article 8.8.
2. All minor free-standing facilities shall be a maximum of five (5) feet in height as measured from the grade at the base of the structure to the apex of the structure. This provision shall be waived for minor-free standing facilities on residential property if its application would prevent the reasonable use of a solar collector for the residential property.

All minor rooftop solar energy facilities shall not be considered as rooftop equipment on any building type, and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.

**b. Residential Property (refer to illustration).**



1. Front yard placement, as depicted by area (1) in the above illustration, is prohibited pursuant to N.C.G.S. § 160D-914(c)(3) when the placement would cause the solar facility to be visible by a person on the ground.

2. Placement on the façade of a structure that faces areas open to common or public access, as depicted by area (2) in the above illustration, is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.
3. Front roof slope placement that slopes downward, as depicted by area (3) in the above illustration, is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.
4. Side and rear yard placement as depicted by area (4) in the above illustration, is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.
5. Side and rear roof slope placement, as depicted by area (5) in the above illustration, is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.

**c. Non-Residential Property.**

1. Front yard placement, as depicted by area (1) in the above illustration, is prohibited pursuant to N.C.G.S. § 160D-914(c)(3) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement of minor free-standing solar facilities on non-residential property in locations other than the front yard as depicted by area (1) in the above illustration, is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.
3. Minor rooftop solar facilities on non-residential property are allowed on:
  - (1) flat roofs
  - (2) roof slopes not facing a street and building; and
  - (3) roof slopes facing the street when using integrated panels.

**.2 Major Solar Energy Facilities.**

**a. General Requirements for Major Solar Energy Facilities.**

1. The minimum lot size requirement for major solar facilities is 10 acres.
2. Setbacks for major solar energy facilities shall:
  - (1) meet the minimum required setbacks for the underlying zoning district for installations in the R and TR zoning districts.
  - (2) be a minimum of 20 feet from any property line in the SP zoning district.
3. Free standing major solar facilities shall be a maximum of eight (8) feet in height as measured from the grade at the base of the structure to the apex of the structure. This provision shall be waived for major-free standing facilities on residential property if its

application would prevent the reasonable use of a solar collector for the residential property.

Major Solar Energy Facilities shall be exempt from any parking requirements in the Huntersville Zoning Ordinance if there is no commercial or office building component.

**b. Residential Property**

Major solar energy facilities on residential property shall require the issuance of a Special Use Permit in accordance with the requirements set forth in [Article 11.4.10](#).

An existing features plan as described in Article 6.300.1.14 of the Subdivision Ordinance must be submitted with the application for the above-described Special Use Permit. Placement of solar panels shall be based on preserving existing features to the extent practical.

1. Front yard placement, as depicted by area (1) in the above illustration, is prohibited pursuant to N.C.G.S. § 160D-914(c)(3) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement on the façade of a structure that faces areas open to common or public access, as depicted by area (2) in the above illustration, is prohibited pursuant to N.C.G.S. § 160D-914(c)(1) when the placement would cause the solar facility to be visible by a person on the ground.
3. Front roof slope placement that slopes downward, as depicted by area (3) in the above illustration, is prohibited pursuant to N.C.G.S. § 160D-914(c)(2) when the placement would cause the solar facility to be visible by a person on the ground.
4. Side and rear yard placement as depicted by area (4) in the above illustration, is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.
5. Side and rear roof slope placement, as depicted by area (5) in the above illustration, is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.

Notwithstanding this subsection, a Special Use Permit shall be granted if the regulations have the effect of preventing the reasonable use of a major solar energy facility on a residential property, except as provided in N.C.G.S. § 160D-914.

**c. Non-Residential Property.**

Major solar energy facilities on non-residential property shall require the issuance of a Special Use Permit in accordance with the requirements set forth in [Article 11.4.10](#).

An existing features plan as described in Article 6.300.1.14 of the Subdivision Ordinance must be submitted with the application for the above-described Special Use Permit. Placement of solar panels shall be based on preserving existing features to the extent practical.

**Section 4.** That these amendments shall become effective upon approval by the Town Board of Commissioners.

**HUNTERSVILLE ORDINANCE ADVISORY BOARD:** January 6, 2021

**PUBLIC HEARING DATE:** March 2022

**PLANNING BOARD MEETING:** March 2022

**TOWN BOARD DECISION:** April 2022



**§ 160D-914. Solar collectors.**

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

- (1) On the facade of a structure that faces areas open to common or public access.
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)



## Text Amendment Application

Date of Application 2/1/2022

### Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

### Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

### Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 9.54 Section(s): .1 & .2

**Current Ordinance**

Please see attached

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**Proposed Text**

Please see attached

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**Reason for Proposed Change**

To remove all special use permit requirements from Article 9.54.1 Minor Solar Energy facilities. Town Staff has also worked with the Town Attorneys to reorganize and clean up language while also bring the language into full compliance with 160D-914.

Attach additional pages if needed.

**NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.**

## Applicant

Printed Name Jack Simoneau

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

Signature Jack Simoneau Date 2-1-22

Title Planning Director Email jsimoneau@huntersville.org

Address of Applicant PO Box 664 Huntersville NC 28070

## Property Owner (if different than applicant)

\* Printed Name \_\_\_\_\_

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_ Email \_\_\_\_\_

Address of Property Owner \_\_\_\_\_

\* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

## Contact Information

**Town of Huntersville  
Planning Department**  
PO Box 664  
Huntersville, NC 28070

Phone: 704-875-7000  
Fax: 704-875-6546  
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078  
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: \_\_\_\_\_

Staff Initials: \_\_\_\_\_

**Town of Huntersville  
Planning Board  
April 26, 2022**

**To:** Town Board

**From:**

**Date:** April 26, 2022

**Subject:**

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**EXPLAIN REQUEST:**

**ACTION RECOMMENDED:**

**FINANCIAL IMPLICATIONS:**

**ATTACHMENTS:**

None