



**Planning Board  
Regular Meeting Minutes  
June 27, 2017 - 6:30 PM**

**Town Hall**

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**A. Call to Order/Roll Call**

The Chairman determined quorum and called the meeting to order.

**B. Approval of Minutes**

1. Consider approval of Minutes of the May 23, 2017 Regular Meeting

A Motion to Approve was made by Stephen Swanick and seconded by Ron Smith. The Motion Carried by a vote of 8 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Planty, Smith, Swanick, Thomas

Absent: Sailers

**C. Public Comments**

**D. Action Agenda**

1. **Text Amendment:** TA17-03, Section 1 is a request by the Town of Huntersville Planning Board to amend Article 11.4.2(b).1 to modify the term limits for members from within the Town Limits.

A Motion to Deny was made by Jennifer Davis and seconded by Adam Planty. The Motion Failed by a vote of 3 Ayes and 5 Nays. Board Members voting Ayes: Davis, Miller, Planty

Nays: Bankirer, Graffy, Smith, Swanick, Thomas

Absent: Sailers

A Motion to Approve was made by Stephen Swanick and seconded by Susan Thomas. The Motion Carried by a vote of 5 Ayes and 3 Nays. Board Members voting Ayes: Bankirer, Graffy, Smith, Swanick, Thomas

Nays: Davis, Miller, Planty

Absent: Sailers

Meredith Nesbitt, Planner I, gave an overview of the application for the text amendment requested by the Planning Board to modify the term limits for its members, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference. The Board deliberated the pros and cons of term limits for volunteering as a Planning Board member.

Included in the Motion to Approve, as amended, it is consistent with Policy ED-14 of the

2030 Community Plan; it is reasonable and in the public interest to amend the Zoning Ordinance because periodic changes in the Planning Board members allows a balance of needs of experience membership, fresh ideas, and brings us in line with the policies of other municipalities.

2. **Text Amendment:** TA17-03, Section 2, is a request by the Town of Huntersville Planning Board to amend Article 11.4.7(b) to modify the number of times the Planning Board may defer action on a request.

A Motion to Approve was made by Jennifer Davis and seconded by Stephen Swanick. The Motion Carried by a vote of 8 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Planty, Smith, Swanick, Thomas

Absent: Sailers

Meredith Nesbitt, Planner I, gave an overview of the application for the text amendment requested by the Planning Board to modify the number of times the Planning Board may defer action, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B, and incorporated herein by reference. The Board discussed its support of the amendment.

Included in the Motion to Approve, it is consistent with the Long Range Plans, and is reasonable and in the public interest to amend the Zoning Ordinance because it approves the efficiency and responsiveness of development review process for developmental proposals.

3. **Text Amendment:** TA17-03, Section 3 is a request by the Town of Huntersville request to amend Article 4: Lot and Building Type for Detached House to modify a reference to Transitional Residential sideyard setback, which was change on February 6, 2017.

A Motion to Approve was made by Jennifer Davis and seconded by Ron Smith. The Motion Carried by a vote of 8 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Planty, Smith, Swanick, Thomas

Absent: Sailers

Meredith Nesbitt, Planner I, gave an overview of the application for the text amendment requested by the Town to modify a reference to Transitional Residential sideyard setbacks, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference. The Board discussed its support of the amendment.

Included in the Motion to Approve, it is consistent with the Long Range Plans, and is reasonable and in the public interest to amend the Zoning Ordinance because it makes the remaining Ordinance consistent.

4. **Text Amendment:** TA17-04 is a request by the Town of Huntersville to amend Article 3.3.2.2(b) and ARTICLE 3.3.3.2(b) of the Huntersville Zoning Ordinance to modify the exceptions to applicability section of the Mountain Island Lake and Lake Norman Watershed regulations.

A Motion to Approve was made by Susan Thomas and seconded by Jennifer Davis. The Motion Carried by a vote of 9 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Planty, Sailers, Smith, Swanick, Thomas

Meredith Nesbitt, Planner I, gave an overview of the application for the text amendment requested by the Town to modify the exceptions of the Mountain Island Lake and Lake Norman Watershed regulations, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit D, and incorporated herein by reference. The Board questioned development of parcels with more than two lots under the current and proposed Ordinance, and questioned other areas in the Town's jurisdiction; specifically Westminster Park. Staff explained the history of the Ordinance, and clarified the bases of the amendment.

Included in the Motion to Approve, it is consistent with the 2030 Community Plan, and is reasonable and in the public interest to amend the Zoning Ordinance because since the adoption of the Watershed Overlay District regulations existing lots of record have been exempt from the Built Upon Area development standards, and it provides flexibility and supports the needs of the citizens.

5. **Special Use Permit:** SUP 17-02 is a request by Godley Group of Charlotte, LLC for the issuance of a special use permit for Frankie's Fun Park. The purpose of the special use permit is to allow lighting that exceeds some standards of Article 8.26 of the Zoning Ordinance per Article 8.26.1(M).

A Motion to Defer was made by Stephen Swanick and seconded by . The Motion Died for lack of Second by a vote of 0 Ayes and 0 Nays. Board Members voting

A Motion to Approve was made by Jennifer Davis and seconded by Joe Sailers. The Motion Failed by a vote of 0 Ayes and 0 Nays. Board Members voting

A Motion to Approve as amended was made by Ron Smith and seconded by Joe Sailers. The Motion Carried by a vote of 7 Ayes and 2 Nays. Board Members voting Ayes: Davis, Graffy, Miller, Planty, Sailers, Smith, Thomas

Nays: Bankirer, Swanick

Included in the Motion to Approve: With conditions that there is continued landscape care on the buffers; that the applicant must resubmit an SUP to change any rides higher than the existing rides; that they reduce the pit area canopy lighting to an average 20' candles and not to exceed 20'; that no ride lighting with the exception of the two swinging rides exceed 40'; and that a lighting report be submitted after installation of lights; and that it is reasonable and does not pose injurious effect on injurious properties and that it finds the character of the neighborhood and the health, safety and general welfare of the community will be minimized, and this decision is supported by the fact that the mature landscaping coverage will cover the lights and that the lighting selected is adequate for the safety of the public. The staff analysis, including all materials of applicant, are including in this decision.

Included in the amended Motion: The post development lighting (by independent third party) be administered by staff with payment by the owner.

#### DISCUSSION:

Jack Simoneau, Planning Director, gave an overview of the application for the Special Use Permit ("SUP") for Frankie's Fun Park; to allow lighting that exceeds some standards of the Zoning Ordinance, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit E, and incorporated herein by reference. Staff recommended approval.

The Board expressed its concerns with the SUP concerning future and potential changes in the amusement rides, and the lighting and height requirements. In support of the SUP, Austin Watts, Civil Engineer with Kimley Horn, represented the Godley Group of Charlotte, LLC, and described the proposed SUP. The original proposed location was across the street, but has since been decided that this use is much better suited across the street. There is a 35' retaining wall being installed on the west side, and there is a SWIM buffer to the left on the site. The ride locations are in the center of the site and are wrapped with the go-carts and a building that screens it from Bryton Corporate Center Drive, and a mini-golf course. The grade level will be at least 25' below the site for the residential side. Aluminum fencing will be installed in the back of the property. There is "Disney-level" landscaping to be installed on site. On the western side trees installed will be 20' tall to give extremely good screening from day one, and throughout the rest of the site there will be massive amounts of landscaping. The proposed rides and lighting to the west was described (lighting to the east is screened by the building and landscaping). In example, a ride 30' tall will be screened by trees, and another ride will run about 5-6 times per night and last about 90 seconds. In summer when it is getting dark at 8:00 p.m. to 9:00 p.m., there is only about 30 minutes per day for the ride/lights to be seen in the dark since the park closes at 9:00 p.m. The rides are typically open from April to September. A ride, Mega-Disco, that faces toward Wal-Mart will have lights turned off on that particular side. It is 43' tall without the disc on top and last about 90 seconds. Staff recommended 22 foot candles, and that is not a problem, and to have a maximum of 40' tall for the light. It is not practicable for this type of ride (ride spins upside down). The other rides are substantially smaller (30' tall and under). All of which is in trying to mitigate the impact and keeping in the spirit of the SUP, its process, and making sure they are keeping an amusement park.

The owner was asked if they would be willing for staff to contact a lighting expert to verify the lighting, and pay for that service. Mr. Watts acknowledged they have the ability to do in-house by the Daniels firm since they are electrical engineers. Mr. Sailors requested it be a third party, and staff can choose the firm. Doug Godley, owner and applicant, agreed. Mr. Watts stated that by in large the lights are for effect, and they have worked intensely with staff regarding the lighting within the pits and on the go-cart track. They have tried not only to meet the intent of keeping a lower light level but to also provide a safe environment for both employees and patrons. If it is associated for a ride, it is for effect, and if associated with the go-cart track, or similar, that is more a safety standpoint.

It was questioned if sounds were considered in the SUP, and Mr. Watt's indicated the landscaping itself will provide some attenuation. Staff stated the SUP is about lighting, and the Town has a Noise Ordinance. Mr. Watts noted that in regards to condition #1, it is respectfully requested that the original proposal (lights that face to the west) be the last part of their mitigation in addition to the trees, clustering of the rides and pushing them up against the SWIM buffer so a fun park feel can be made within the interior of the site. Staff indicated that when a ride is over 40' it is being mitigated by the applicant (no lights on that side, no flashing lights, etc.). The east side of the road is zoned for light manufacturing. It was asked about having a time limitation on the SUP, to which staff felt the Town Attorney would need to weigh in. Staff included that the amount of money being spent on this project and to have it limited in time makes the project a tough deal, and is not recommended by staff, but the Town Board could re-verify the lighting in x number of years (7-10 years). The members continued to express opinions about the lighting and rides, and having the SUP reviewed at a later date. Mr. Godley, owner and applicant, stated that rides are switched out in 5-10 years, and it would be practical that if the rides were over a certain height they would need to come back, but if they are 30' or less then why care what ride is put in? The Chairman requested a

Motion.

6. **Rezoning:** R17-01 Sherrill Subdivision Conditional Rezoning is requested by Nate Bowman to rezone parcel numbers 01920320, 01920313, and 01937101 from Neighborhood Residential and Transitional Residential to Neighborhood Residential Conditional District.

A Motion to Approve was made by Joe Sailers and seconded by Ron Smith. The Motion Carried by a vote of 9 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Planty, Sailers, Smith, Swanick, Thomas

Included in the Motion to Approve: Based on staff recommendation that all required TIA and NCDOT requirements be approved and in place before Town Board recommendations; and that the buffer and block length waivers be approved as suggested by staff. The plan is consistent with the 2030 Community Plan; it is in the interest of the public and reasonable and should be approved because it meets the 2030 Plan, zoning requirements and all necessary TIA and DOT requirements.

**DISCUSSION:**

Alison Adams, Senior Planner, gave the overview of the rezoning plans, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit F, and incorporated herein by reference. Staff described the location of the site along Holbrooks Road, and the surrounding areas, and indicated that the subdivision is also a component of Valencia, which is a component of Vermillion. There are 77 single family lots proposed, with 2.04 units per acre. The future roads were described, and two waiver requests have been made by the applicant. One is to remove the buffer between the adjoining neighborhood for high quality design, and the other is for a block length waiver (895'), and staff is in support of the waiver. All staff comments have been addressed since the public hearing. Staff is in favor of approving the subdivision, and the applicants meets all the requirements. It is in compliance with the 2030 Community Plan, and the East Huntersville Plan.

Stephen Trott indicated he received a third version of the TIA, and based on the numbers in the report, no off site mitigation would be warranted.

The members commented about the landfill on Holbrooks Road, connecting roads, the buffers, and the farm pond located on site. Staff further described and clarified the pond, which is not jurisdictional, and it will become a square to meet the Urban Open Space requirement. Nate Bowman stated that the pond drains silt into his property, and it will be filled in. Drainage of the pond was discussed, and Nate Bowman indicated the creek will be substantially protected, and the pond will be handled. Bike lanes were asked about and staff indicated that they are not required on Holbrooks Road, which is not a designated street for bike lanes. There will be required sidewalks and street trees. The Greenway was questioned and discussed by Nate Bowman, who has given much land to Mecklenburg County for this purpose (from Mirabella to the future Asbury Chapel Road). Jack Simoneau, Planning Director, showed the location of the landfill and the Greenway, which is not part of this rezoning plan.

7. **Sketch Plan:** Proposal by Bowman Development, Sherrill Subdivision, on 37.77 acres (+/-) including parcels 01920320, 01920313, and 01937101 to construct 77 single-family residential homes.

A Motion to Approve was made by Joe Sailers and seconded by Adam Planty. The Motion Carried by a vote of 9 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis,

Graffy, Miller, Planty, Sailers, Smith, Swanick, Thomas

Included in the Motion to Approve: The application is complete; it meets all necessary requirements; it is consistent with TIA requirements, DOT requirements, both with the waiver of the buffers and the block lengths being approved; and that it is very un-impactful to the community and in the best interest to the community and it meets and exceeds the 2030 Community Plan recommendations.

8. **Rezoning:** Petition R16-07, a request by Skybrook, LLC to revise the existing Conditional District rezoning plan for 175.05-acres to add 4-acres (currently zoned R) and to revise the Transitional Residential Conditional District (TR-CD) to increase density, adjust open space, streets and other site plan changes. TR-CD zoning is requested for the entire site to permit 225 single-family lots located north of Huntersville-Concord Road and west of Poplar Tent Church Road. Property is vacant, with a few single-family homes.

A Motion to Defer, as agreed upon by applicant was made by Joe Sailers and seconded by Ron Smith. The Motion Carried by a vote of 7 Ayes and 2 Nays. Board Members voting Ayes: Bankirer, Graffy, Miller, Sailers, Smith, Swanick, Thomas

Nays: Davis, Planty

Included in the Motion to Deny: It is consistent with the parts of the 2030 Community Plan; it is not reasonable, and not in the public interest to approve the zoning plan because of staff recommendations in Part 6, the lot count may not exceed 220 units or require a TIA; Town and NCDOT requirements are provided to include the curb radii adjustments; all outstanding transportation comments must be addressed and street trees are in the appropriate locations for on-street parking cross sections; the Mecklenburg County LUESA, Charlotte Water and USPS approval of plans; all outstanding redline comments addressed, and the recommendation based on staff.

Included in the substitute Motion to Defer: To postpone for 30 days giving the applicant and staff time to communicate.

#### DISCUSSION:

David Peete, Principal Planner, presented the rezoning and sketch plan together. Staff entered the Staff Reports into the record, a copy of which are attached hereto as Exhibit G, collectively, and incorporated herein by reference. Staff noted the existing conditional district plan and the applicant is asking to revise the plan and add about 4 acres to the site (Rural to TR). Staff gave the history of Skybrook back to 2006. Staff recommends the lot count not to exceed 220 units; that all required (original) TIA requirements are provided, and transportation comments are provided, to include curve radii adjustments; add street trees in appropriate locations for on-street parking cross-section; that Mecklenburg County (LUESA), Charlotte Water, and USPS approvals be obtained, and all outstanding redline comments are addressed. It is further recommended that the build-to range of 5 to 10' between homes, and identify trail to connect subdivision to future greenway along western boundary. The applicant indicates the property will be offered for annexation. The applicant has proposed five additional lots (225). There is a block length waiver from the original plan that staff supports, and a waiver eliminating curb and guttering on Huntersville-Concord Road, which staff supports. Staff indicates the applicant is code compliant.

The members discussed the lot sizes and increase of the 5 units; the block lengths and mail

kiosks and parking for the kiosks, including the old TIA requirements. The Chairman noted his residence in Skybrook Parkside, and noted he is not affected financially by this project and not asking to be recused. Scott Moore with Skybrook, LLC presented on behalf of the project, and noted that since 2010 there are only 16 platted lots. Mr. Moore indicated minor changes were made to incorporate staff's recommendations, prior requirements, and focus on the open space. When grouping together lot sizes and transition to the surrounding communities, and laying out the roads is how the number of lots were arrived. The applicant is not attempting to maximize the density of the previously approved plan, which was set at 258 lots. The average lot is being proposed at 71.7, and the average lot size will be over 11,386 square feet. Open space is almost doubled in size at 1.67, and there are two pocket parks added and will preserve specimen trees. 3.5 acres have been added to the tree save. There are two gas line easements through the property with proposed walking areas, and will be maintained by the HOA as common area. Mr. Moore further noted that the all TIA (Town and NCDOT) will be meet, and further noted there are two (2) different radiuses; 90' radius (allowed in 2006 and 2010), and a 150' radius. If the radii is changed it will redesign the site. In 2006 and 2010 these areas were compliant, and have been used already in Skybrook, and have been safe and enjoyable to use. The applicant wants to continue to use and utilize the same on this plan.

It was asked if there was an agreement between the HOA and the gas pipeline company for the maintenance of the grass strip(s), and Mr. Moore confirmed they have permission, and explained the use of the easement as a grassy area with no hard improvements. Mr. Moore was asked by a member about compliance with the radius in 2006 and 2010 versus current amount of units, and Mr. Moore replied that he was not made aware that radius had anything to do with a denser product.

Mr. Moore further presented and stated that the transportation redline comments will be addressed, and street trees will be added. It will be noted for the recommendation of 5 – 10' between homes, and a trail will be identified to connect with the future greenway. The property will be petitioned to be annexed into the Town of Huntersville. The primary issues are the difference in the five units and the curb radius. The street trees will be compliant with on-street parking are the park area. Jack Simoneau, Planning Director stated that 180 lots were previously approved and 220 was discussed, and staff would be comfortable with that amount if the UOS was improved. Staff suggested the large park. Mr. Moore responded that in looking at staff's suggestion, it were areas that were not identified by staff, and there is significant value to improving those areas. Skybrook is very much under all of the TR density requirements and the originally approved plan. Mr. Moore clarified that a kiosk will be centralized in the community, and will have parking. Mr. Bankirer wanted to see the approval containing pull-in areas where the kiosks are located. Mr. Moore advised the Board that developer typically show USPS where mail kiosks will be installed. USPS does not dictate the location of kiosks. It was asked by the Board if Mr. Moore will agree to show the pull-off area, and Mr. Moore again noted that most of the streets have on-street parking, and a pull off lane could be utilized, if necessary. However, Mr. Moore has never had the USPS recommend another lane to be provided. Many people get out and walk, and kiosks are not usually congested areas. Stephen Trott spoke to the Board concerning a question about a turn-out lane, which is not an officially parking spot but within the public right of way, and would have to be maintained by the public. Other communities have recently provided parallel parking spaces near the kiosk locations. As Scott Moore pointed out the kiosk locations are done at the construction planning stage with staff review, and not during the concept sketch plan of the development. Maintenance and enforcement with turn-out lanes could be a potential conflict.

Mr. Trott was asked to speak about the TIA, and he noted there was a TIA in 2006, which preceded the Town's Ordinance. There was a left turn lane into the neighborhood entrances; one being on Poplar Tent, and one being on Huntersville-Concord Road. There were off-site improvements identified in the TIA, but have since been done by another development (i.e. stop light). NCDOT does not require a new TIA or further improvements, and based on the Town's Ordinance, the increase in the proposed falls below the threshold. There is nothing in the current Ordinance that says how long a TIA is valid. The number of lots or density has nothing to do with radii. The 2009 Standards & Procedures Manual (after approval of this project), all developments are looked to meet the minimum standards based on the design speed of a street, and two of the curves proposed in this subdivision are below that threshold (centerline radius of 200). Staff indicated that adjustments to this plan have been made to the 2006 and 2010 plans. Installing speed bumps was questioned. Mr. Trott indicated that a mini-circle was suggested for traffic calming. It is suggested to change the radii in the two curves.

Scott Moore noted the cul-de-sacs being offered with turn-around areas for fire access. He further noted that the Town Board approved this plan in 2006, then adopted different standards, and again approved in 2010. Mr. Moore feels they have a good design, and have incorporate as many things that staff wanted to see in the current proposal for safety, and aesthetics. Mr. Sailors indicated there are still two problems; five additional lots and the radius, and asked about a postponement. Mr. Moore indicated that if this plan is not approved they still have a development plan that contains the same radiuses, and the density has not been an issue. Outside of doing a complete redevelopment of those two items, which completely changes the complexity of the site plan, they have made it clear with staff that they want to stick to something that the Town Board approved twice. Brian Pace, Skybrook LLC, addressed the Board and stated that this project is in a better place now than in the 2006. This project transitions very nicely from the Parkside to the Villages site, has connected amenities, and a mix of products. The street patterns have been held almost identical to what they were, and the two radiuses work with the land the way it is. There are other radius like this throughout Skybrook. He stated he would be happy to give it another month, but felt the same plan would be seen. There may not be another solution. They have walked every street, identified additional tree save, none of which have been staff requirements or requests, and was not sure that staff had been on the property. He could not promise that any changes could be made. Staff set a number, and the proposed plan came up with five more lots. The schedule for submission, review and meetings was discussed. Mr. Pace concluded with a comment about the off-site improvements (stop light at the intersection).

9. **Sketch Plan:** A request by Skybrook, LLC to revise the Sketch Plan for 175.05-acres to add 4-acres (currently zoned R) to increase density, adjust open space, streets and other site plan changes. The Sketch Plan would permit 225 single-family lots located north of Huntersville-Concord Road and west of Poplar Tent Church Road. Property is vacant, with a few single-family homes.

A Motion to Defer, as agreed upon by applicant was made by Joe Sailors and seconded by Ron Smith. The Motion Carried by a vote of 7 Ayes and 2 Nays. Board Members voting Ayes: Bankirer, Graffy, Miller, Sailors, Smith, Swanick, Thomas

Nays: Davis, Planty

10. **Sketch Plan:** A proposed Sketch Plan for 3.84-acres to create 6 lots zoned HC-CD. The parcels would be for commercial uses and located abutting Preysing St., Cane Creek Dr., and Bryton Town Center Dr. Property is vacant, with some parking.

A Motion to Approve was made by Stephen Swanick and seconded by Catherine Graffy. The Motion Failed by a vote of 0 Ayes and 0 Nays. Board Members voting

Included in the Motion to Approve: The application is complete, and complies with all applicable requirements pending addressing intersections for Lots 2D and 2E in regards to the intersections, also pending a Willingness to Serve letter provided by Charlotte Water. It is in the public interest in regards to helping Bryton fulfill its potential.

**DISCUSSION:**

David Pete, Principal Planner, presented the request, and entered the Staff Report into to record, which is attached hereto as an Exhibit, and incorporated herein by reference. It is compliant, and staff recommends approval. There is no TIA or APFO required. A Willingness to Serve letter to be provided by Charlotte Water. The building on Lots 2D and 2E need to address the intersection better, and staff is working with the applicant on this. There are other minor comments to be addressed. Cross access easements will be provided for the shared parking.

A Motion to Approve as amended was made by Harold Bankirer and seconded by Ron Smith. The Motion Carried by a vote of 9 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Planty, Sailers, Smith, Swanick, Thomas

Included in the amended Motion: To indicate that minor comments to the notes on the site plan should be completed to the staff's satisfaction.

**E. Other Business**

1. Adjusted TIA Results Reporting Format

This item was not discussed and will be placed on the next Agenda

**F. Adjourn**

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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Chairman or Vice Chairman

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Michelle V. Haines, Board Secretary