

STAFF REPORT

DATE: February 17, 2021
TO: Board of Commissioners and Planning Board Members
FROM: Dave Hill, Senior Planner
SUBJECT: *Adequate Public Facilities Ordinance (APFO) Rescission*

SUMMARY

A public hearing will be held on March 1, 2021 to consider the proposed repeal of Chapter 13 of the Town Zoning Ordinance, the Adequate Public Facilities Ordinance (APFO), and related references contained in the Zoning and Subdivision Ordinances. Planning staff prepared the text amendment application after review by the Planning Board and the Ordinance Advisory Board. Following the public hearing, the Planning Board will be scheduled to make a recommendation on the text amendment on March 23, 2021, with the Board of Commissioners to consider final action on April 19, 2021.

Town staff recommends repeal of Town of Huntersville Adequate Public Facilities Ordinance (APFO), Chapter 13 of the Town of Huntersville Zoning Ordinance (adopted in December 2007). Any other references to the APFO in other regulations (such as the Town's Zoning Ordinance or Subdivision Regulations) should also be removed. The purpose of the ordinance is to prevent the approval of development proposals if the service capacity of the Town's Police, Fire, or Parks & Recreation departments fall below certain capacity levels and to provide a capital facilities planning tool.

There are several reasons for the recommendation to repeal the APFO. First, the APFO requirements have never triggered the delay or denial of a development application since its adoption. Second, the affected departments no longer use the APFO, and have opted to use different measures to determine proper service levels and future capital needs. Third, the Town Manager and Board of Commissioners employ a budget review and adoption process that allows better flexibility and more comprehensive treatment of public facilities than does the APFO. Fourth, the database required under the APFO requires considerable maintenance by Town staff that is not yielding any meaningful results.

TEXT AMENDMENT

The APFO text amendment requires two separate ordinances – one affecting the Town's Zoning Ordinance, and one affecting the Town's Subdivision Ordinance. The draft ordinances, provided as Attachments #1 and #2, have been prepared for public review, and action by the Planning Board and Board of Commissioners.

EXISTING OR NEW PROCESSES TO MONITOR PUBLIC FACILITIES

Staff does not recommend the establishment of any new processes to monitor public facilities to compensate for the rescission of the APFO. Some observations:

1. Since APFO adoption in 2007, no development applications have been delayed or denied.
2. Over time, the Town's development review processes have and continue to improve. All of the affected departments participate in coordinated fashion and in great detail, and communications with Mecklenburg County have improved as well. Because there is typically a lag between application approval and actual construction, the provision of adequate facilities can be planned and budgeted.

3. The Town Board of Commissioners, in concert with the Town Manager, conducts an extensive budget and capital improvements program (CIP) that encompasses far more than the 3 APFO departments (Police, Fire, Parks). An important distinction is that the existing budget and CIP process allows coordination of both operating and capital expenses. In addition, the Town Board has the flexibility to respond to changing service demands not afforded by the rigidity of the APFO.
4. The APFO database is a critical component needed to monitor development and assess public facilities needs. Some of the more complicated data tracking will be eliminated, but the Town's development database will continue to be maintained by the Planning Department. The department's ability to track and share information with other departments is subject to continual improvement, including expanded geographic information systems (GIS) capabilities.
5. Finally, staff is sensitive to competing demands for Town funding and staff resources. At the current time, it does not appear that a new Public Facilities budgeting program would yield significant results. The Town Board would be the appropriate body to determine if budgeting and CIP modifications are needed.

BACKGROUND

On February 26, 2019, The Huntersville Planning Board approved a motion requesting that the Town Board of Commissioners charge the Planning staff, with Planning Board members included, to examine the calculations, methodology and requirements for the Adequate Public Facility Ordinance, to recognize the increasing density and demands upon the Town.

On April 1, 2019, Town Board Commissioners were briefed regarding the intent of the Planning Board motion, and agreed by consensus to conduct the APFO examination as requested by the Planning Board.

On May 10, 2019, Planning Board Chair Jennifer Davis and Planning Board members Hal Bankirer and Scott Hensley met with Town Planning staff to discuss how the examination would be performed.

From May 2019 through December 2019, Planning staff spent considerable time updating and verifying the development permit data used to calculate different measures used in producing a "Determination of Adequacy."

On January 28, 2020, planning staff presented preliminary APFO findings to the Huntersville Planning Board.

NEXT STEPS

Planning Board Meeting: March 23, 2021

Town Board Decision: April 19, 2021

AN ORDINANCE REPEALING ARTICLE 13 AND AMENDING ARTICLE 11 OF THE HUNTERSVILLE ZONING ORDINANCE

BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Article 13 of the Huntersville Zoning Ordinance is repealed, and Article 11 of the Huntersville Zoning Ordinance is amended as follows:

Section 1. Article 13 of the Zoning Ordinance entitled “Adequate Public Facilities Ordinance (APF)” is repealed in its entirety.

Section 2. Section 11.6 of the Huntersville Zoning Ordinance shall be amended to read as follows:

11.6 Zoning Compliance

.1 Zoning Compliance

- a) A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the appropriate Zoning Administrator.
- b) The Administrator shall approve the Zoning Permit unless he finds, after reviewing the application and consulting with the applicant that:
 - 1) the requested Permit is not within his jurisdiction according to the Permitted Uses; or,
 - 2) the application is incomplete; or,
 - 3) if completed as proposed in the application, the development will not comply with one (1) or more requirements of this Ordinance (not including those requirements for which a variance has been granted); or
 - 4) ~~if required under Article 13, no Determination of Adequacy has been issued by the Zoning Administrator; or~~
 - 5) 4) if required under Article 14, no Traffic Impact Assessment has been approved by the Town.

.2 Site Plans; Adequate Public Facilities; and Traffic Impact Assessment

- a) Site plans shall be required from applicants prior to issuance of any Permit (building, zoning, special use permit, variance) if deemed necessary by the Zoning Administrator to determine zoning compliance. ~~If required by Articles 13 or 14, an Adequate Public Facilities Determination of Adequacy and~~ Traffic Impact Assessment shall be submitted with the residential or nonresidential site plan.

Section 3. Effective Date.

This Ordinance shall become effective upon the date of adoption.

PLANNING BOARD: Recommended starting the process to repeal the APFO on 5/26/2020, 9-0.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: Recommended APFO repeal on 1/7/2021, 8-0.

PUBLIC HEARING DATE: March 1, 2021

PLANNING BOARD MEETING: March 23, 2021

TOWN BOARD DECISION: April 19, 2021

AN ORDINANCE TO AMEND SECTION 6 OF THE HUNTERSVILLE SUBDIVISION ORDINANCE

BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 6 of the Subdivision Ordinance is hereby amended as follows:

Section 1. Section 6.200(19) shall be amended to read as follows:

19. Impact of Development on Public Facilities

When reviewing certain subdivisions, the town shall consider the impacts the proposed development will have on public facilities in light of the requirements of Section 6.300(13) and ~~Article 13 and~~ Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision does not adversely affect the health, safety and welfare of the community, and where applicable, the developer may provide mitigation measures to minimize adverse impacts. Examples of mitigation measures include altering development layout and plans, providing improvements at nearby intersections to address impacts of that development (not existing deficiencies), and providing street connections to adjoining property for safe and efficient movement of traffic, as further provided in Section 6.300(13) and ~~Articles 13 and 14~~ of the Zoning Ordinance.

Section 2. Section 6.300(13) shall be amended to read as follows:

13. ~~Adequate Public Facilities Applications; Traffic Impact Assessments; Physical Analysis.~~
- ~~1. an Adequate Public Facilities Application for certain subdivisions, as required under Article 13 of the Town Zoning Ordinance, which is hereby incorporated by this reference;~~
 2. 1. a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
 3. 2. for developments of twenty (20) or more residential units or equivalent traffic generation a Physical Analysis (type of units expected including number of bedrooms, projected values, size and timing of phases, etc.).

Section 3. Section 6.850 shall be amended to read as follows:

6.850 ADEQUATE PUBLIC FACILITIES AND TRAFFIC IMPACT ASSESSMENTS

Where required, ~~an Adequate Public Facilities Application and~~ Traffic Impact Assessment shall be provided by the applicant, in accordance with ~~Articles 13 and~~ 14 of the Town Zoning Ordinance, which are incorporated by this reference.

Section 4. Effective Date.

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