

MEMORANDUM

DATE: October 29, 2020
TO: Huntersville Ordinance Advisory Board Members
FROM: Dave Hill, Senior Planner
SUBJECT: ***Adequate Public Facilities Ordinance (APFO)***
COPIES: Jack Simoneau, Planning Director; Anthony Roberts, Town Manager; Jackie Huffman, Assistant Town Manager

SUMMARY

The current Town of Huntersville Adequate Public Facilities Ordinance (APFO), Chapter 13 of the Town of Huntersville Zoning Ordinance (adopted in December 2007), should be rescinded by the Town Board of Commissioners. 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.

The Huntersville Planning Board recommended rescission of the APFO on May 26, 2020 through the following motion and vote:

H. Bankirer made a Motion to Approve staff to begin rescinding the APFO requirement and reference to the APFO in any Town related references and regulations and to begin developing a new tool for the planning and decision making purposes for the capital assets for Planning, Police, Fire and Parks and Recreation Department. S. Swanick seconded the motion. The motion passed unanimously (9-0).

This issue is now ready for review by the Huntersville Ordinance Advisory Board (HOAB). The staff recommendation continues to support rescission of the APFO. However, the Planning Board motion included instructions to "..... begin developing a new tool for the planning and decision-making purposes for the capital assets for Planning, Police, Fire, and Parks and Recreation Department." Staff does not feel that a "new tool" needs to be in place in order to rescind the APFO. The Huntersville Board of Commissioners is legislatively responsible for the Town's capital planning program, and balances the needs of far more services than Police, Fire, and Parks & Recreation. It is entirely appropriate for the Planning Board and HOAB to evaluate whether or not the APFO is needed. Any decisions regarding the development of a new capital planning tool is another matter, and should be determined solely by the Town Board and Town Manager.

At the time of adoption, the APFO served a useful purpose. The Town's population had grown from about 25,000 to about 38,000 between 2000 and 2006, and with projections showing continuing rapid growth, the addition of a tool to address potentially overwhelming service demands made sense. However, Huntersville has consistently improved the service capacity of Police, Fire, and Parks & Recreation services, and these departments have improved the efficiency and effectiveness of their operations.

Specific reasons the APFO should be rescinded include:

1. The Level of Service (LOS) standards contained in the ordinance are intentionally set as minimum thresholds meant to delay or deny a development proposal in the event that extreme service capacity problems are encountered. The fact that this “stopgap” measure has never been triggered in the 13 years since the APFO was adopted indicates that the Town has responded favorably to service demands, even in the face of rapid growth.
2. The database required for administration of the APFO is cumbersome and expensive to maintain. On two occasions (2009 and 2010), the Town hired consultants to update APFO data. Planning staff will continue to maintain a detailed development database even if the APFO is rescinded, but related tasks will be less complicated and more useful for departments that use the data.
3. Huntersville Police, Fire, and Parks & Recreation staff representatives met with Planning staff, and provided the comments found in Attachment 1. None of the affected departments rely on the APFO as guide to plan service programs or related budget proposals. Instead, they use professionally accredited programs, comparable city studies, citizen surveys, and frequent review sessions (including budget review) with the Town Board to determine appropriate service levels.
4. The APFO sets minimum LOS thresholds tied to 6 capital facility standards with the specific intent to deny or delay development proposals. This is a simplistic system that doesn’t allow discretion, nor does it recognize the complexities of service delivery for the affected departments. For example, the Police Department responds to far more service calls for the Walmart Superstore than it does for any other retail business (or combination of businesses) with the same amount of floor space. There is no way to account for individual service demands when comparing one business with another.

If the APFO is rescinded, the affected departments are satisfied that existing processes, including the use of professional accreditation standards, comparable city studies, citizen surveys, and frequent Town Board review sessions, serve to determine appropriate levels of service. This type of approach constitutes an informal “best practices” strategy used by many municipalities nationwide.

Rescission of the APFO does not mean that the Town will have no other means of addressing service capacity during development proposal review. Provisions already contained in the Town’s Zoning Ordinance and Subdivision Ordinance allow the consideration of the adequacy of public facilities and services during the review of development applications. These provisions are shown below:

Zoning Provision

e) In considering any petition to reclassify property the Planning Board in its recommendation and the Town Board in its decision should consider:

- 1) Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property;
- 2) The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies, and wastewater and refuse disposal; and
- 3) Whether the proposed reclassification will adversely affect a known archaeological, environmental, historical, or cultural resource.

Subdivision Provision

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.

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. Several issues were raised:

1. How do communities of similar size approach this issue?
2. What is the relationship between the APFO formulae and actual Town Capital Improvements Program (CIP) budget decision-making?
3. Can the following be provided:
 - a. A clearer idea of Level of Service (LOS) over time?
 - b. Do the Police, Fire, and Parks & Recreation Departments agree with the LOS?
 - c. How is LOS calculated?
 - d. Is the method of LOS calculation appropriate at the current time?

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. Primary discussion points are provided below:

APFO Observations (January 28, 2020 Planning Board Presentation)

1. Since the adoption of the APFO in late 2007, the APF Application process has never resulted in the rejection of a Development Proposal in Huntersville.
2. The APFO is quantitative in design – the calculation of Available Capacity is formulaic. There is no allowance for qualitative judgement.
3. Assumptions made during development of the APFO included "Committed Capacity" for development approved prior to APFA adoption. This consumed facility capacity whether the projects were built or not. Current Available Capacity reflects the absorption of 3,230

dwelling units from 2007-09 – many of which have not been built. Similar assumptions were made for non-residential Committed Capacity.

APFO Issues (January 28, 2020 Planning Board Presentation)

1. The APFO has never resulted in denial of an APF application. Is it needed?
2. The APFO sets minimum thresholds for Levels of Service. The Huntersville community does not seem likely to set a low bar given the Town's quality of life expectations.
3. The APFO became effective in January 2008. NC legislative changes over the years raise questions regarding the legal defensibility of Huntersville's APFO. If the APFO is to be retained, professional review of the ordinance would be appropriate.
4. Informal discussions with Police, Fire, and Parks & Recreation representatives led to a few conclusions that will be revisited by Planning staff:
 - a. The departments do not use the APFO LOS thresholds to determine service delivery.
 - b. The departments do employ a "Best Practices" approach to service delivery that is much more diverse than the APFO's standards, is much more adaptable to changing technology and service methods, and allows discretion to make qualitative decisions.
 - c. The departments spend considerable time with elected officials and citizens to discuss improvement priorities and long-term budget strategies.
5. Maintenance of the APFO database consumes considerable Planning staff time and resources. Development information is provided separately to the affected departments, and these same departments participate in development review in a very detailed manner.
6. A policy issue that may need to be discussed publicly is whether or not the Town of Huntersville wants a tool to stop Development Proposals.

Huntersville Planning Board APFO Review & Assessment: May 26, 2020

H. Bankirer made a Motion to Approve staff to begin rescinding the APFO requirement and reference to the APFO in any Town related references and regulations and to begin developing a new tool for the planning and decision making purposes for the capital assets for Planning, Police, Fire and Parks and Recreation Department. S. Swanick seconded the motion. The motion passed unanimously (9-0).

ADEQUATE PUBLIC FACILITIES ORDINANCE BASICS

A copy of the APFO is provided as Attachment 2.

➤ **Applicability / Administration**

- The APFO affects Development Proposals, which include:
 - Special Use Permits;
 - Overlay District with Required Site Development Plans;
 - Conditional Zoning District;
 - Subdivision Sketch Plans or Preliminary Plans;
 - Final Plats; **and**
 - Building Permits.
 - Note: The APFO does not apply to residential projects that have less than 20 lots / dwelling units, or nonresidential projects that have less than 10,000 SF of floor area, or will create less than 50 peak hour or 500 daily vehicle trips.
- A Development Proposal applicant must submit an APF application.
- Planning staff (Administrator) must make a Determination of Adequacy that the Development Proposal meets all applicable Level of Service (LOS) thresholds.

- If Available Capacity exists, the Determination of Adequacy is valid for one year, provided the applicant achieves vesting for the project. Capacity for the project is then reserved, and is called Allocated Capacity.
 - If Available Capacity does not exist, the APF Application must be denied. The applicant may change or reduce the size of the project, stagger the project phases, or prepare a Mitigation Plan.
 - The APFO is applicable to Huntersville's town limits and ETJ.
- **Database Maintenance**
- Planning staff maintains an APFO data base, tracking Development Proposal activity on a month-to-month basis.
 - Development Proposals are tracked by type of use: Single Family Residential, Multi-Family Residential, Commercial, Office, and Industrial.
 - Planning staff also tracks capital improvements programmed for the Police, Fire, and Parks & Recreation departments. Capital improvements approved in the annual budget are used to adjust Available Capacity when applicable.
 - Non-residential uses are exempt from LOS thresholds for Parks & Recreation.
 - LOS thresholds were established in 2007. They were based on existing conditions in the Town, with additional built-in capacity based on one year of projected development. They are not based on any state or nationally accepted standards of service.
 - LOS thresholds for all measures of service adequacy are based on facilities available per 1,000 people.

Current APFO Level of Service (LOS) Standards (Last adjusted in 2010)

Facility Category	Facility Type	LOS (per 1,000 population)*
Fire Protection	Fire Vehicles	0.20
	Fire Station (SF GFA)	445.10
Law Enforcement	Police Vehicles	1.68
	Police Station (SF GFA)	171.20
Parks & Recreation	Gyms (SF GFA)	710.20
	Parks (Acres)	6.40

Current APFO Capacity Thresholds (Without Additional Capital Expenditures)

Current Development Capacity* (as of January 1, 2020)					
Facility Type	SF Dwelling Units	MF Dwelling Units	Commercial (Gross Square Feet)	Office (Gross Square Feet)	Industrial (Gross Square Feet)
Fire Vehicles (#)	4,861	6,870	1,563,912	1,094,738	1,563,912
Fire Station (SF GFA)	41,587	58,751	13,377,497	9,364,246	13,377,497
Police Vehicles (#)	596	843	158,009	110,602	158,009
Police Station (SF GFA)	110,233	155,728	29,204,724	20,443,289	29,204,724
Gyms (SQ GFA)	12,651	17,873	-	-	-
Parks (ac)	4,137	5,844	-	-	-

Committed Capacity

Assumptions made during development of the APFO included “Committed Capacity” for development approved prior to APFO adoption. This consumed facility capacity whether the projects were built or not. Today’s Available Capacity reflects the absorption of 3,230 dwelling units from 2007-09 to account for properties that could be developed through approval of a building permit only – and by staff estimates, more than half of these units have not been constructed. Similar assumptions were made for non-residential Committed Capacity – a total of 402,616 square feet of nonresidential floor space was added for previously approved but unbuilt projects.

**Projected Permitted Development,
by Dwelling Units (DUs) and Population**

Year	SF DUs	SF Pop Change	MF DUs	MF Pop Change	Total DUs	Total Population Change
2007	878	2,391	250	482	1,128	2,872
2008	878	2,391	173	333	1,051	2,724
2009	878	2,391	173	333	1,051	2,724
TOTAL	2,634	7,172	596	1,148	3,230	8,320

Source: Town of Huntersville; Planning Department, 2007

INITIAL APFO ORDINANCE ADOPTION

In August 2006, the Town of Huntersville hired the consulting firm White & Smith, LLC to prepare an “Adequate Public Facilities Ordinance” (APFO). An overview of the APFO was presented to the Town Board in June 2007. Three (3) capital facilities were and still are included in the APFO: Parks & Recreation, Fire Protection, and Law Enforcement. Levels of Service (LOS) were established for each of the three (3) facilities to be included in the APFO. A “Capacity Baseline Assessment” was then prepared which detailed remaining available “capacity” based upon Town growth projections. At the time (2007), the ordinance’s initial assessment concluded that between 1 and 2 years of capacity remained, after accommodating existing residential and non-residential development, as well as one year of facility capacity for approved (permit-ready) but unbuilt residential and non-residential development (“Committed Capacity”).

Based upon LOS standards set forth in the Draft APFO, none of the three (3) facilities were deemed to be deficient at the time.

At the Town Board’s November 19, 2007 meeting, the Town Board voted to defer final action on the APFO/TIA Ordinance Amendments until its December 3, 2007 meeting. Several Board members expressed concern about the effect that the proposed ordinance changes would have on economic development. Planning staff then reviewed the text of the ordinance changes to determine the impact on economic development. Based upon this review and after meeting with Jerry Broadway, of the Lake Norman Economic Development Corporation and the Town Manager and Assistant Town Manager, changes to the draft ordinance were made that allowed for third-party (The Town, NCDOT or other public or private entities) participation in any required mitigation. Specifically, such mitigation would permit the Town to include any required APFO mitigation (including road improvements) as part of an Economic Development Initiative (EDI) Grant, or other economic incentive package associated with the expansion or new development of a business in the Town of Huntersville.

The Adequate Public Facilities Ordinance was adopted on December 3, 2007, with an effective date of January 2, 2008.

In 2009, the Town paid \$12,000 for consulting services to update the APFO database. In 2010, the Town paid \$9,600 for consulting services to update the APFO database.

Options

1. Rescind the APFO and any references to the APFO contained in other Town of Huntersville regulations.
2. Keep the APFO intact and commit the necessary resources to update the APFO database.
3. Investigate alternatives that could make the APFO more effective and useful, such as reexamining the capital measures that are used to determine available capacity.

Next Steps

The Huntersville Planning Board made a recommendation to rescind the APFO on May 26, 2020.

Once the Huntersville Ordinance Advisory Board makes a recommendation regarding the APFO, the matter will be referred to the Town of Huntersville Board of Commissioners for final disposition.

Police, Fire/EMS, Parks & Recreation Department APFO Comments

APFO Questions & Responses

In February 2019, The Huntersville Planning Board asked Planning staff to examine the Adequate Public Facilities Ordinance (APFO). Following an in-depth analysis of the ordinance and the database associated with the APFO, a preliminary briefing was provided to the Planning Board in January 2020. Staff questioned the need for the ordinance, but also indicated some more discussion with affected departments was needed.

On February 19, 2020, a meeting was held to discuss the Adequate Public Facilities Ordinance. The following staff members attended: Barry Graham & Kevin Johnston (Police), Jim Dotoli (Fire), Michael Jaycocks (Parks & Rec), Jackie Huffman (Manager's Office), and Jack Simoneau, Brian Richards, and Dave Hill (Planning).

During the meeting, it was clear that the affected departments (Police, Fire, Parks & Rec) were not familiar with the APFO, do not currently use the APFO in any way to determine appropriate Levels of Service (LOS), and when familiarized with how the APFO functions, indicated that the APFO would not be useful in the future. The affected departments said the APFO Levels of Service were well below the standards they currently use, and that they use several measures that are much more preferred when assessing performance.

Planning staff suggested that, if the APFO were to be rescinded, there are alternatives that could be considered to take its place, particularly when it comes to public assurance that Police, Fire, and Parks & Rec use appropriate LOS standards to measure performance, and to report on performance periodically. The option of 'Best Practices' was brought up, and planning staff said it would ask the affected departments some operational questions to help explore a Best Practices Option / Alternative. The questions are below:

Police Department Comments

1. What measures does your department use to establish Levels of Service?

We are accredited through CALEA and are required to comply with over 400 law enforcement standards that requires our department to develop a comprehensive, uniform set of written directives, which is the one of the most successful methods for reaching administrative and operational goals, while also providing direction to personnel. CALEA Accreditation standards require dozens of reports and analyses a CEO needs to make fact-based, informed management decisions. CALEA Accreditation requires a preparedness program be put in place—so our department is ready to address natural or man-made unusual occurrences. Finally, CALEA Accreditation strengthens our department's accountability, both internally and within the community, through these standards that clearly define authority, performance, and responsibilities.

Note: CALEA is a national nonprofit organization titled "The Commission on Accreditation for Law Enforcement Agencies."

2. What standards does your department use to establish LOS?

- a. Professional?
- b. Comparable towns / cities?
- c. User surveys?
- d. National / state?
- e. Required for accreditation?

As previously stated the department complies with over 400 law enforcement standards to maintain CALEA Accreditation. CALEA Accreditation is an international award recognizing professional excellence and requires the department to comply with over 400 standards related to six major areas of law enforcement: (1) role, responsibilities and relationships with other agencies; (2) organization, management and administration; (3) personnel administration; (4) law enforcement operations, operational support and traffic; (5) prisoner and court related services; and (6) auxiliary and technical services.

3. Do you have a written Plan of Service? If so, can you provide us with a copy?
4. What process does your department use to review how services are provided? Other than the annual Town Board retreat and budget process, are there other times when the quality of your department's services are publicly reviewed?
Through CALEA Accreditation the department conducts many annual reviews/analyses to review current procedures and revise or update procedures to maintain levels of service.
5. Does your department cooperate with or coordinate the provision of services with other agencies? If so, who are they?
6. We talked about Best Practices as an alternative way to establish and monitor Levels of Service. Would this work for your department?
7. What type, when, and how often is Planning Department information and data most useful to your department?

Traffic issues.

Fire Department Comments

1. What measures does your department use to establish Levels of Service?
HFD uses a number of standards to establish the level of Fire and Rescue services in the town as well as the ETJ.
 - **To effectively manage the fire service, it is imperative that fire department administration, town administration and political leaders understand how resource deployment in the Huntersville Fire District will affect outcomes in three (3) areas of**

importance: firefighter injury and death, Civilian injury and death, as well as property loss.

2. What standards does your department use to establish LOS?
 - **National Fire Protection Association Handbook**
 - **National Fire Protection Association Standards**
 - **Office of the North Carolina Fire Marshal's Office**

3. Do you have a written Plan of Service? If so, can you provide us with a copy?
 - **The Huntersville Fire Service plan is integrated with the Mecklenburg County "Emergency Operations Plan" which details the appropriate response to mitigate fire and rescue incidents.**

4. What process does your department use to review how services are provided? Other than the annual Town Board retreat and budget process, are there other times when the quality of your department's services are publicly reviewed?
 - **The Office of the State Fire Marshal conducts periodic inspections and grades the level of service that is being provided. Of course, each time HFD answers a call for service it is reviewed by the public. The level of service provided is dictated by what the citizens of any given community are willing to pay through the political leaders that have been elected.**

5. Does your department cooperate with or coordinate the provision of services with other agencies? If so, who are they?
 - **Neighboring Fire Agencies, Medic, Emergency Management Office, Fire Marshal's Office**

6. We talked about Best Practices as an alternative way to establish and monitor Levels of Service. Would this work for your department?
 - **Yes**

7. What type, when, and how often is Planning Department information and data most useful to your department?

HFD uses planning department information throughout the year to understand projected growth, geographic location of that growth and how it relates to the possibility of increasing the level of service in those areas.

Parks & Recreation Department Comments

1. What measures does your department use to establish Levels of Service?

This is done through our master plan process.

2. What standards does your department use to establish LOS?
 - a. Professional?
Internal Data is used to determine LOS. Growth of programs, turning away participants or users due to lack of parks and facilities.
 - b. Comparable towns / cities?
Benchmarking with similar size towns is considered when developing our LOS in our Master Plan
 - c. User surveys?
We do surveys as part of our master plan process.
 - d. National / state?
We consider National Standards as well as trends.
 - e. Required for accreditation?
3. Do you have a written Plan of Service? If so, can you provide us with a copy?
Below is the link to our current master plan that we are currently updating and hope to have completed by summer 2020.
<https://www.huntersville.org/DocumentCenter/View/380/Final-Master-Plan-Documents-Approved-1-Nov-7-2011-PDF?bidId=>
4. What process does your department use to review how services are provided? Other than the annual Town Board retreat and budget process, are there other times when the quality of your department's services are publicly reviewed?
We send out surveys after each program or event as well as survey users of our parks and facilities. We also review google reviews and other social media review forums to see what users are saying about our facilities and programs.
5. Does your department cooperate with or coordinate the provision of services with other agencies? If so, who are they?
Yes, we have many partnerships. K-12 Schools, CPCC, Athletic Associations, Davidson, Cornelius, Mecklenburg County, Civic Groups, American Legion, Visit Lake Norman, non-profits and local businesses.
6. We talked about Best Practices as an alternative way to establish and monitor Levels of Service. Would this work for your department?
I think what we have works for us.
7. What type, when, and how often is Planning Department information and data most useful to your department?
Yearly population numbers and updated estimates for future years.

E.2 APFO Update (Huntersville Planning Board Draft Meeting Minutes - June 26, 2020)

J. Simoneau presented the APFO Basics report and how the current process affects development proposals and the process by the applicant and staff. As of this date there has not been a denial due to adequate public facilities.

Staff has met with Huntersville Police, Fire and Parks and Recreation to review the APFO. Based on the results of those meetings, staff is recommending that the APFO be rescinded. The reasons for this recommendation include, 1) The levels of service standards are minimum thresholds. 2) The database is expensive and cumbersome to maintain. 3) The related organizations do not use this data but have their own individual metrics that they measure and use. 4) The system does not allow for discretion or address complexities of service for affected departments.

Staff presented the options of 1) Rescinding the APFO and all references to the APFO within the Zoning ordinance and regulations; 2) Keeping the APFO intact and committing the necessary resources to update the database; and 3) Investigate alternatives to make the APFO more effective and useful.

J. Davis asked how maintaining the database would get simpler with the proposed changes. Staff responded that a development may have an approved sketch plan but not break ground for quite some time. The proposed database solution would track proposed developments and available lots so that it more accurately reflects what the need for services would be. This would drastically reduce what is currently required to maintain the database.

F. Gammon asked if the opinion is that the APFO has outlived its usefulness and the request would be to investigate an alternative that would require less work and less expense to manage. Staff agreed that that is the consensus.

S. Swanick stated that he would support rescinding the current APFO and asked how difficult it will be to replace the APFO with the metrics used by the existing organizations to manage the data for this purpose be incorporated into our Ordinance. Staff stated that it would not be that simple since the criteria of the systems used by the other organizations are not intended to measure for the same purpose, therefore incorporating that criteria into our Ordinance would be very difficult and may not serve the purpose we want it to.

S. Thomas stated that it sounds like the current ordinance is reactionary to development versus proactive to planning and how if the process changes it will stay transparent to residents on how capital improvement dollars are being spent. Staff stated that it actually has been a capital planning tool of approved projects with a 2, 5 and 10-year timeline for development provided to each department head so they can keep that in mind for capital facility needs. The capital improvement funds remain transparent by reviewing the budget and Parks and Recreation outreach.

H. Bankirer recommended that option 3 of identifying an updated method is the approach he would recommend to address the need to transform this data to be an effective capital planning tool and act as a pacing tool for the associated departments and eliminate unnecessarily complicated tracking that is not useful.

S. Hensley stated that this may have been intended to be a good planning tool but may not be an effective decision making tool and he would like to know how staff will use the data and is it necessary, before a recommendation is made to assume we need the tool.

H. Bankirer made a Motion to Approve staff to begin rescinding the APFO requirement and reference to the APFO in any Town related references and regulations and to begin developing a new tool for the planning and decision making purposes for the capital assets for Planning, Police, Fire and Parks and Recreation Department. S. Swanick seconded the motion.

S. Swanick asked if it was necessary for both of those items to go together. J. Davis asked what timeline would be needed to address this. Staff confirmed that the two actions could not happen at once, they would need to be reviewed, researched and then addressed no quicker than 3 months from now to rescind the ordinance, more likely 4 – 6 months' timeline.

The motion passed unanimously (9-0).

Town of Huntersville Zoning Ordinance
ARTICLE 13: Adequate Public Facilities Ordinance (APF)

ARTICLE 13.1 - SHORT TITLE

This Article shall be known and may be cited as the Huntersville "Adequate Public Facilities Ordinance."

ARTICLE 13.2 - PURPOSE, INTENT, & FINDINGS

13.2.1 The purpose and intent of this Article is:

- a) To implement the provisions of the Town of Huntersville Community Plan and other adopted plans of the Town related to the adequacy of Public Facilities as new growth occurs.
- b) To ensure that Public Facilities needed to support new development meet adopted level of service standards.
- c) To ensure that the Town maintains realistic Capital Improvements Programs to accommodate new development based on its ability to provide adequate Public Facilities to that development.
- d) To protect the character of the Town and to conserve the value of buildings and encourage the most appropriate use of land throughout the Town.
- e) To ensure that no Development Proposal is approved that would cause permanent reductions below adopted guidelines in the level of service for Public Facilities addressed in this Article.
- f) To ensure that adequate Public Facilities needed to support new development are available within a reasonable period of time as new development occurs.
- g) To establish uniform procedures for the review of APF Applications subject to the standards and requirements of this Article.
- h) To encourage the efficient development of land in Huntersville.
- i) To ensure that new growth occurs at a rate that is consistent with the Town's and its partnership agencies' obligation and ability to provide Public Facilities.
- j) To encourage development in areas where Public Facilities are adequate and/or planned in Capital Improvement Programs.
- k) To ensure that all applicable legal standards and criteria are incorporated in these procedures and requirements.
- l) To ensure that Proposed Development will not adversely affect the public health, safety, and general welfare of existing and future residents of Huntersville.

13.2.2 In adopting this Article, the Town hereby finds and determines as follows:

- a) The Public Facilities subject to the provisions of this Article are necessary for the public health, safety, and general welfare.
- b) New growth and development within the Town has an impact on the availability and capacity of Public Facilities, the capacity of which can be maintained if development is approved consistent with adopted level of service standards.
- c) The Town has prepared and adopted a Capital Improvements Program to provide the Public Facilities needed to accommodate reasonable rates of growth and development, which CIPs will be reviewed and updated if necessary annually to reflect changes in the Town's growth rate, available financial resources, and other relevant factors.

- d) The level of service standards adopted for each Public Facility are necessary for the protection of the public health, safety and welfare, and will not unduly inhibit new growth and development within Huntersville.
- e) This Article is necessary so that continued growth does not outstrip the Town's ability to plan for and fund necessary Public Facilities.

ARTICLE 13.3 - DEFINITIONS

The words, terms, and phrases used in this Article shall have the meanings set forth in Article 12.2 of the Huntersville Zoning Ordinance, except as set forth below.

Adequate Public Facilities (APF) Allocation - a reservation of Capacity made by the Administrator upon a Determination of Adequacy.

Adequate Public Facilities (APF) Application - an application for a Determination of Adequacy of Public Facilities.

Adequate Public Facilities (APF) Schedule - a schedule maintained by the Administrator that tracks the capacity of Public Facilities.

Administrator - the Huntersville Zoning Administrator or the Zoning Administrator's designee.

Advanced Facility - a Capital Improvement proposed to be constructed, dedicated, or funded by an applicant pursuant to an approved Mitigation Plan.

Capacity - the demand that can be accommodated by a Public Facility.

Capacity, Allocated - Capacity reserved pursuant to an unexpired APF Allocation made under this Article.

Capacity, Available - the circumstance where Public Facilities have sufficient Capacity, based on adopted Levels of Service standards, to accommodate the demand created by a Proposed Development, including where an applicant has provided Advanced Facilities sufficient to mitigate the impacts of the Proposed Development on Public Facilities.

Capacity, Committed - Capacity consumed by development approved prior to the effective date of this Article and not subject to the requirements of this Article.

Capacity, Reserved - Capacity reserved for a specified development or use, other than those set aside pursuant to an APF Allocation, including developments proposed after the effective date of this Article, which impact Public Facilities, but which are exempt from the requirements of this Article.

Capacity, Used - capacity dedicated to habitable structures and existing land uses, served by the Public Facility at the time of the APF Determination.

Capital Improvements - a physical asset, including land, that mitigates the offsite impacts of new development on Public Facilities, the costs of which generally are non-recurring, may require multi-year financing, and provide additional capacity needed to accommodate the demand for Public Facilities.

Capital Improvements, Existing - Capital Improvements either constructed and operational at the time of an APF Application or the portion of a Capital Improvement which was designed to serve existing residents and employees as of the effective date of this Article.

Capital Improvements, Planned - Capital Improvements included on a CIP and expected to be available by the end of the third fiscal year following the date of the APF Application.

Capital Improvements, Total - Existing Capital Improvements and Planned Capital Improvements.

Capital Improvements Program or "CIP" - plans and budgets adopted by the Town, or service provider of a particular public facility, which itemize planned Capital Improvements and the timing and means of funding such improvements.

Determination of Adequacy - a determination by the Administrator, after consultation with the responsible agency or Town department, that each Public Facility impacted by a Proposed Development has Available Capacity, which determination may be based on an approved Mitigation Plan.

Development Proposal - any of the following applications that specify the amount of proposed floor area and/or number of units or lots, by land use type, and which has not received a Determination of Adequacy:

- (a) a special use permit;
- (b) any overlay district for which a site specific development plan is required under the provisions of this ordinance;
- (c) a conditional zoning district;
- (d) a subdivision sketch plan or a preliminary plan when required by the subdivision ordinance;
- (e) a final plat when no sketch plan or preliminary plan is required; or
- (f) building permit.

Essential Public Services - facilities operated by governmental or quasi-governmental agencies that provide services on behalf of the public, which are critical to the health, safety, and welfare of the public. Essential Public Services may include but are not limited to governmental offices, parks and recreation facilities; public transit facilities; schools; gas, electric, or steam distribution systems; water and sewer services; solid waste systems; communications systems; emergency services; publicly-owned housing; fire protection services; and law enforcement services.

Level of Service (LOS) - an indicator of the extent or degree of service provided by a Public Facility, based upon and related to the operational characteristics of the facility, in comparison to the Capacity of the Public Facility.

Mitigation Plan - a voluntary plan, effectuated through a binding agreement, to ensure the provision of Available Capacity through Advanced Facilities, where Capacity would not otherwise be adequate to support the demand resulting from a Proposed Development.

Phased Development Proposal - a Development Proposal wherein the Proposed Development will be constructed incrementally in a logical time and geographical sequence according to an approved Phasing Schedule.

Phasing Schedule - a schedule that sets forth the timing of the development of a Development Proposal, including, but not limited to, provision of necessary Public Facilities, the number of units, as applicable, and their location on the site.

Proposed Development - development proposed pursuant to a Development Proposal and an APF Application.

Public Facilities - parks and recreation, law enforcement, and fire protection facilities.

ARTICLE 13.4 - LEVEL OF SERVICE STANDARDS

13.4.1 The Level of Service standards applicable to Public Facilities are as follows:

Facility Category	Facility Type	LOS (per 1,000 population)
Fire Protection	Fire Vehicles (#)	0.2
	Fire Station (SF GFA)*	445.1
Law Enforcement	Police Vehicles (#)	1.68
	Police Station (SF GFA)*	171.2
Parks & Recreation	Gyms (SF GFA) *	710.2
	Parks (acres)	6.4

*Square Feet Gross Floor Area

13.4.2 Based on the above Level of Service standards, the following demand factors apply, by land use:

Facility Category	Facility Type	LOS by Land Use Type				
		Single-Family (per DU)*	Multi-Family (per DU)*	Commercial (per 1,000 SF GFA)	Office/Civic Uses (per 1,000 SF GFA)	Industrial (per 1,000 SF GFA)
Fire Protection	Fire Vehicles (#)	0.000277	0.000196	0.000861	0.001230	0.000861
	Fire Station (SF GFA)	0.540518	0.382611	1.680335	2.400479	1.680335
Law Enforcement	Police Vehicles (#)	0.002071	0.001466	0.007818	0.011169	0.007818
	Police Station (SF GFA)	0.185883	0.131579	0.701615	1.002308	0.701615
Parks & Recreation	Gyms (SF GFA)	1.933530	1.368668	n/a	n/a	n/a
	Parks (acres)	0.017442	0.012347	n/a	n/a	n/a

*Dwelling Unit

13.4.3 Based on the unique impacts of a Proposed Development on Public Facilities, the Town may initiate or an applicant may submit an application to the Administrator requesting that an alternative demand factor be applied to the Proposed Development for purposes of complying with the terms of this Article. The alternative demand factor must be supported by professional economic and land use-based analyses, such as the latest edition of the Trip Generation Manual (ITE), which clearly demonstrates an impact on Public Facilities different from those set forth in subsection 13.4.2, based on the Level of Service standards set forth in 13.4.1. The Town's analysis or an application under this subsection must be approved by the Administrator prior to the submission of an APF Application and the completeness review provided under section 13.6.3 of this Article.

ARTICLE 13.5 - APPLICABILITY

13.5.1 GENERALLY

Except as provided in subsection [13.5.2](#), below, the provisions of this Article shall apply only to Development Proposals submitted on or after the effective date of this Article, as follows:

a) Residential Uses.

This Article shall apply to residential Development Proposals that involve more than twenty (20) lots or dwelling units.

b) Nonresidential Uses.

This Article shall apply to nonresidential Development Proposals that either (i) involve 10,000 square feet or more of floor area or (ii) are expected to create fifty (50) or more peak hour vehicle trips or 500 or more daily vehicle trips, whichever is less.

c) Parks and Recreation.

A Determination of Adequacy is required for any residential Development Proposal within the Town or its extraterritorial jurisdiction. No Determination of Adequacy is required for nonresidential Development Proposals with respect to parks and recreation facilities.

d) Fire Protection Facilities.

A Determination of Adequacy is required for any residential or nonresidential Development Proposal within the Town or its extraterritorial jurisdiction with respect to fire protection facilities. The adequacy of fire protection facilities will be determined based on the stations and vehicles within the Huntersville/Craighead Fire District only.

e) Law Enforcement Facilities.

A Determination of Adequacy is required for any residential or nonresidential Development Proposal within the Town or within its extraterritorial jurisdiction if the applicant offers to be annexed into the Town limits, with respect to law enforcement facilities.

f) Consecutive or Sequential Applications.

Proposed Developments may not be phased or subdivided in piecemeal fashion to avoid application of this Article. Two or more developments represented to be separate developments shall be aggregated and treated as a single development under this Article if the Administrator determines them to be part of a unified plan of development and physically proximate to one another, based on the following factors:

- 1). There is unified ownership, indicated by the fact that:
 - (a) The same person has retained or shared control of the developments;

- (b) The same person has ownership or a significant legal or equitable interest in the developments; or
 - (c) There is common management of the developments controlling the form of physical development or disposition of parcels of the development.
- 2) There is a reasonable closeness in time between the completion of 80% or less of one development and the submission to the Town of a Development Proposal for a subsequent development that is indicative of a common development effort.
 - 3) The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments.
 - 4) There is a common advertising scheme or promotional plan in effect for the developments.
 - 5) Any information provided by the applicant that the project is not being phased or subdivided to avoid the requirements of this Article.

13.5.2 EXEMPTIONS

- a) Essential Public Services.
The provisions of this Article shall not apply to Essential Public Services.
- b) Agricultural and Farm Uses.
Upon determination of the Administrator, the provisions of this Article shall not apply to any lands or structures dedicated to bona fide farm purposes.
- c) Accessory Structure or Use.
The provisions of this Article shall not apply to any Development Proposal, or portion thereof, that is an accessory structure or use, as defined in [Article 12](#)
- d) Previously-Approved Development.
The provisions of this Article shall not apply to any Development Proposal that was part of a conditional zoning plan or subdivision plan submitted prior to the effective date of this Article.
- e) Vested Rights.
This section shall not be interpreted or deemed to affect any rights that have vested prior to the effective date of this Article, nor shall any provision of this Article be applied to a specific property or applicant in a manner that would result in a taking of a property.

ARTICLE 13.6 - APPLICATION & REVIEW PROCEDURE

13.6.1 WHEN REQUIRED

Subject to the requirements of this section, no Development Proposal Application will be accepted by the Town unless an Adequate Public Facilities (APF) Application is submitted prior to, or in conjunction with the Development Proposal application.

13.6.2 REQUIREMENTS FOR APF APPLICATION

- a) Pre-Submittal Meeting Required. Prior to submission of an APF Application, the applicant must meet with the Administrator to confirm the scope and applicability of this Article and to identify potential Public Facility deficiencies that may need to be mitigated. At or following the pre-submittal meeting, the Administrator shall:
 - (1) provide the current APF Schedule;
 - (2) identify planned and funded Capital Improvements that affect Available Capacity for the project;

- (3) provide other relevant and available demand and Capacity information for Public Facilities; and
- (4) summarize the scope of the APF Application requirements, which shall include, but not necessarily be limited to, the information listed in subsection 13.6.2(b).

b) General APF Application Requirements. The APF Application shall include:

- (1). A description of the Proposed Development, including the type and amount of each proposed land use.
- (2). A Phasing Schedule, as applicable.
- (3). A description of any past or proposed Public Facility dedicated, constructed, or funded in order to mitigate the impacts of the Proposed Development.
- (4). A Mitigation Plan, if applicable, proposing any improvements to be completed by the applicant.
- (5). Other information required by the Administrator in order to evaluate the APF Application and to make a Determination of Adequacy.

13.6.3 COMPLETENESS REVIEW

Within ten (10) working days of its receipt, the Administrator shall determine whether the APF Application is complete and complies with the submission requirements set forth in section 13.6.2. If the APF Application is complete and the submission requirements have been met, the Administrator shall provide copies of the application to responsible agencies and Town departments for review and input regarding Available Capacity. If the APF Application is not complete, the Administrator will notify the applicant of its deficiencies in writing within fifteen (15) working days of its receipt.

13.6.4 DETERMINATION OF ADEQUACY & ALLOCATION OF CAPACITY

- a) After consultation with the responsible agency or Town department, the Administrator shall determine whether Available Capacity exists for each applicable Public Facility, based on the level of service standards set forth in section 13.4 and the following:
 - 1) Calculate Total Capital Improvements by adding:
 - a. Capacity provided by Existing Capital Improvements, based on the LOS standards set forth in Section 13.4, to
 - b. The Capacity of any Planned Capital Improvements.
 - 2) Calculate Available Capacity by subtracting from the Total Capital Improvements the sum of:
 - a. Used Capacity;
 - b. Committed Capacity;
 - c. Reserved Capacity;
 - d. Allocated Capacity; and
 - e. the demand on Public Facilities created by the Proposed Development.
- b) The Administrator's Determination of Adequacy shall be reflected in a written report that:
 - (i) Identifies Existing and Planned Capital Improvements and any Available Capacity of Public Facilities that serve the Proposed Development, pursuant to the terms of this Article.

- (ii) Describes Capital Improvements funded and assumed to be in place to serve the Proposed Development.
- (iii) Identifies any previously dedicated, constructed, or funded Public Facility made in order to mitigate the impacts of the Proposed Development.
- (iv) Sets forth findings and conclusions related to the impact of the Proposed Development on Available Capacity.
- (v) After consultation with the responsible agency or Town department, states whether there is Available Capacity for each applicable Public Facility sufficient to accommodate the Proposed Development.

c) Approval of Determination of Adequacy.

- 1) Where Available Capacity exists for each applicable Public Facility, the Administrator shall issue a Determination of Adequacy.
- 2) Upon issuance of a Determination of Adequacy by the Administrator, the Administrator shall:
 - a. Notify the applicant in writing within ten (10) working days of the Determination of Adequacy and APF Allocation; and
 - b. Record the APF Allocation on the Adequate Public Facilities Schedule.
- 3) If a Determination of Adequacy is based on an Advanced Facility, the APF Allocation and approval of the APF Application shall be conditioned on the timely completion of the Advanced Facility.

13.6.5 DURATION AND EFFECT OF A DETERMINATION OF ADEQUACY

- a) Unless an extension is granted as provided in (b) below, a Determination of Adequacy and the issuance of an APF Allocation shall be deemed to indicate that:
 - 1) Available Capacity exists at the time of the Determination of Adequacy by the Administrator; and
 - 2) Except as provided in (a)(3)-(5) below, a Determination of Adequacy shall remain valid provided that, within one (1) year the issuance of the Determination of Adequacy, the applicant has achieved vesting under section 2.2 of the Zoning Ordinance.
 - 3) The Determination of Adequacy shall expire if one of the above approvals expires pursuant to the terms of the Zoning or Subdivision Ordinance.
 - 4) A Determination of Adequacy issued as provided above shall expire if a certificate of occupancy, or final plat approval, as applicable has not been completed within three (3) years of the approval described in (a)(2) above.
 - 5) A Determination of Adequacy shall be withdrawn from the APF Schedule, if an applicant releases the determination to the Town in writing.
- b) Upon the request of the applicant, the Town Board may extend the duration of a Determination of Adequacy. No extension will be granted except upon a showing by the applicant that the application is actively continuing through the development process, by demonstrating such factors as:

- 1) whether building permits for the Development Proposal have been issued and remain active;
 - 2) whether the applicant can demonstrate unique hardship or extenuating circumstances not created by the applicant; or
 - 3) whether site improvements and development has progressed during the duration of the initial Determination of Adequacy.
- c) A Determination of Adequacy shall not affect the need for the applicant to meet all other requirements set forth in the Zoning and Subdivision Ordinances or any other lawfully adopted ordinance or law of the Town.

13.6.6 NONAVAILABILITY OF CAPACITY; MITIGATION PLANS

- a) If the Administrator determines that Available Capacity does not exist for a particular Public Facility and no Mitigation Plan has been proposed pursuant to subsection (c)(3) below, the Administrator shall deny the APF Application and no Determination of Adequacy or APF Allocation shall be entered.
- b) Upon denial of an APF Application, the Administrator shall notify the applicant in writing within ten (10) working days of the denial and shall state the reasons for the denial and any actions that the applicant may take voluntarily to receive a Determination of Adequacy.
- c) Where there is no Available Capacity or upon a denial of an APF Application, the applicant may:
 - 1) submit a Development Proposal that has a reduced amount of development for which Available Capacity exists;
 - 2) submit a Phased Development Proposal that includes the following:
 - a. a proposed Phasing Schedule setting forth the amount, location, and timing of development associated with each proposed phase;
 - b. a showing that Available Capacity will exist for each phase of development;
 - c. where Advanced Facilities are proposed, the location and timing of the proposed facilities based on the Phasing Schedule and Mitigation Plan as provided in (c)(3) below; and
 - d. other additional information or materials identified by the Administrator or other Town staff as necessary to ensure the timely and adequate provision of Public Facilities, based on the level of service standards and requirements of this Article.
 - 3) propose a Mitigation Plan, at the applicant's expense, which provides Advanced Facilities that would mitigate the proportionate-share impacts of the Proposed Development on Public Facilities, based on the Level of Service standards in section 13.4.

Should mitigation be required in conjunction with a Development Proposal, nothing shall preclude the participation of third-parties (public or private) in defraying all or a portion of the cost of such mitigation. Any Mitigation Plan that proposes the provision of Advanced Facilities must provide an estimate of the incremental cost of providing the Advanced Facilities, a schedule for commencement and completion thereof, and a description of how the Advanced Facilities will mitigate the impact of the Proposed Development. In order for a Mitigation Plan to be accepted, it must be approved by the Town Board.

ARTICLE 13.7 - CAPITAL IMPROVEMENTS PROGRAM

13.7.1 CAPITAL IMPROVEMENTS PROGRAM

- a) Purpose. The CIP is the mechanism by which the Town of Huntersville and its partnering agencies provide new and expanded Public Facilities Capacity needed to accommodate anticipated future population and employment at adopted level of service standards. Through the implementation of CIPs, the Town will use all reasonable means to ensure that the provision of Public Facilities Capacity is sufficient to accommodate new growth and development, consistent with the reasonable availability of revenue sources; contributions of Capital Improvements; and physical, environmental, or topographical constraints on the expansion of the Capacity of Public Facilities.
- b) Requirements for monitoring and evaluation. The Town and/or its partnering agencies shall maintain a CIP for the Public Facilities subject to this Article and shall implement this Article based on adopted CIPs.

13.7.2 MONITORING REPORTS

At the beginning of each fiscal year, the Administrator shall prepare an annual report addressing the following:

- a). The Available Capacity of Public Facilities.
- b). Anticipated increases in residential and nonresidential development within the Town.
- c). The current need for any Public Facilities resulting from changes in population increase, employment growth, or other relevant factors.
- d). The development of lots and land uses approved prior to the effective date of this Article.
- e). Other matters or actions recommended to effectuate the purpose and intent of this Article, including any related to demand assumptions, need factors, level of service standards, and other matters recommended by the Administrator for reconsideration or revision.
- f). The projected financing for any additional Capacity resulting from the factors set forth in subsections (a) through (e), above.

The monitoring reports shall be made available to the Town Board and each agency or department responsible for Public Facilities.

ARTICLE 13.8 - APPEALS & VARIANCES

An applicant may seek a variance from the terms of this Article or appeal a determination by the Administrator or other Town official or agency, made pursuant to the terms of this Article, to the Zoning Board of Adjustment, as provided in Article 11.3 of the Zoning Ordinance.