

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

October 3, 2022

**6:00 p.m. – Huntersville Town Hall
101 Huntersville-Concord Road**

PRE-MEETING

The Huntersville Board of Commissioners held a Pre-meeting at Huntersville Town Hall, 101 Huntersville-Concord Road, at 5:00 p.m. on October 3, 2022.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the Pre-meeting to order.

Commissioner Kovacs said I was going to kind of explain where this started, so that way we know why it's on the agenda.

On September 19, a resident reached out to me and asked me a question about the NorthState Town Center project, and I knew the plans had just been approved so I pulled it up on our very easy to use Planning website. When I was looking at the website, I noticed that the retail space appeared to be significantly smaller than I remembered, so I started pulling up the minutes from the January 19 meeting.

Those reports first stated that David Peete stated I have full Planning Board recommendation, and I'm only reading that first because it came up in the minutes first, but I did want to point out that Frank Gammon was not present at that meeting, so it wasn't actually the full Planning Board, so it was unanimous of just the attendees that day. But then Commissioner Walsh made a motion that specifically stated while the developer is not proposing to achieve the 30 percent tree save, they do commit to working with staff to achieve a 15 percent tree save and in all cases minimum required tree save would be mitigated per the provisions of the Zoning Ordinance as described in Article 7, and I read that because I will have a question about that later. With those provisions, I'm paraphrasing because it was a very long motion, so with those provisions it's reasonable and in the public interest to rezone 9.947 acres as described in Attachment B of the Staff Report from TC, NR and GR to Town Center mixed-use conditional district rezoning plan as provided in our packet and dated January 5, 2021 to permit 12,000 sq. ft. of commercial space which is not to be used for leasing, exercise or other amenities associated with apartments and no more than 134 apartments, 41 townhomes and 11 single-family homes.

Upon seeing this I realized that the plan that is currently approved provides much less than 12,000 sq. ft. of commercial. Some space on the main floor consists of flex storage space at 710 sq. ft., maintenance at 680 sq. ft., maintenance office at 113 sq. ft., auxiliary electrical 81 sq. ft., main electrical 196 sq. ft., corridor of 163 sq. ft., leading to bike storage and a pet spa, mail at 389 sq. ft. and a package room 280

sq. ft. and then a pass-through at 794 sq. ft., equaling 3,406 sq. ft. There is Commercial A that will be 3,526 sq. ft. and Commercial B will be 4,043 sq. ft. and if you were to combine all those, although I don't believe they should be combined, that gives you a total of 10,975 sq. ft., which in my math is still not 12,000 sq. ft.

There were many questions, emails that were sent to staff trying to figure out the discrepancy between the motion and the approved plan. Mr. Simoneau was there to kind of clear up some of the confusion. On September 19 I was forwarded an email from Ms. Amy Hallman who had been emailing staff about the same situation and the response to both of us was combined and included former Commissioner Walsh who made the motion originally and the email stated "I thought it best to use the email to answer your questions and address your concerns. Below is the motion made by Nick Walsh. As has been indicated in the motion (below) included "....12,000 sq. ft. of commercial space....". However, the motion also referenced the January 5, 2021 rezoning plan (also below). That plan referenced a modification of no more than 66 percent residential uses on the first floor. The motion and the notes on the plan raised a question in our mind as to what specifically was approved. To address that question, we had a conference call with Nick Walsh, staff and Shane Seagle where we went over the proposed floor plan to detail what part of the building is assigned to residential and non-residential floor area. Attached is the final floor plan that staff accepted as meeting the conditional rezoning plan."

I find this extremely concerning because I feel if clarification needed to be made about the motion, not only Commissioner Walsh who made the motion should have been contacted, especially the person who seconded the motion, and then the rest of the commissioners who had to vote either yay or nay on said motion. There's a vast difference between the two and it could be enough to change votes and I would like to know what the proper protocol on this situation is. Later we were all forwarded an email responding to Commissioner Phillips from Ms. Sloop and it said "Attached is the Planning presentation that was presented for this item. As you can see, all of the slides refer to 12,000 sq. ft. of non-residential (not commercial space). My understanding is that the developer and their attorney, Susan Irvin, had previous communications with Planning staff and the Town Board regarding the various versions of the plan and that the January 5th version of the plan was what was eventually agreed upon to be presented for the vote on 1/19/21. Once a motion is made and seconded, it would be up to the Town Board members to ask for clarification if they did not understand the motion prior to voting on the matter."

I wanted to know why this is referring to the commissioners who voted being the ones that misunderstood the motion. If it was a problem with the motion referring to a plan and then a specific amount of detail, then why was that only clarified with one person. I'd really like to ask those of you who were on the Board during this time, were any of you asked what you thought about the motion or the discrepancies.

Mayor Bales said no.

Commissioner Boone said I was against the project from the start.

Commissioner Kovacs said but were you contacted about it.

Commissioner Boone said no.

Commissioner Phillips said no.

Commissioner Munger said I don't believe so.

Commissioner Kovacs said I don't feel as though the Town Board members can be responsible for the discrepancies when they weren't even contacted to know that there was a discrepancy. Do you feel confident in your vote now seeing that it's different than what it was written or from your understanding, do you feel your vote represented what is being done now.

Mayor Bales said from where I sit, I would have voted no, because it was very clear that 12,000 sq. ft. of commercial, non-residential commercial space for business was the goal.

Commissioner Munger said this certainly is not the end result that we negotiated.

Commissioner Kovacs said on September 28 Mr. Simoneau sent an email to the Town Manager, Anthony Roberts, stating "This is to inform you I instructed Kayleigh to approve building permit for the NorthState mixed-use building. The final floor plan is attached and is consistent with the % of residential/non-residential floor shown on rezoning plan dated July 5." Again, this is where the discrepancy is between that and the 12,000 that was stated in the motion. "For clarity, we reached out to Nick Walsh in June 2021 to make sure the first-floor plan was consistent with this motion for approval. He agreed that it was. Please note that other agencies had comments on the building plans and those comments must be addressed before the building permit is released by Mecklenburg County."

My takeaways from this so far and why we are kind of all meeting about this at the pre-meeting, at least from my perspective, is that motion was made and then it was changed by then Commissioner Walsh after running it by with Ms. Sloop, so he had conversed with Ms. Sloop about what the motion should be. The addition of statements as provided in our packet dated January 5, 2021 was added after Ms. Sloop went over it and that was added before the statement of permitting 12,000 sq. ft. of commercial space, the addition of the motion with a confusing statement was not caught on the dais, the staff was later confused about the motion assuming 12,000 sq. ft. did not trump the percentage of sq. ft. referenced in the plan. Commissioner Walsh was contacted to see what he meant in regards to this motion, but no other Board members were. A new vote was not taken due to the significant change and as we just heard, it was something that would have changed people's votes. I want to know what is the appropriate way to handle this, because it appears we don't have an appropriate way to handle this and we need to figure out how this can be significantly rectified. Was this legal to do this with only one commissioner and not the rest of them? Why was a decision made by former Commissioner Walsh to accept less than 12,000 sq. ft.? Why are we accepting square footage clearly that is majority for residential as non-residential? What percentage of something does it have to be for commercial space to be considered commercial even it's being used by residential? Ultimately, we just need to know who is at fault for the determination of one-third less of square footage than what was approved on the dais and being allowed to give a developer full control as opposed to the Board.

Commissioner Phillips said I think she said everything much better than I ever could.

Mayor Bales said Mr. Simoneau, would you like to go through your presentation packet.

Jack Simoneau, Planning Director, reviewed the history of the project. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

I want to remind everybody there was two steps involved in this. The Town was selling an “L” shaped piece of property and so the contract to sell that property said that the Board has to approve a conceptual plan. Then after that conceptual plan was approved then they moved to rezonings. I want to compartmentalize this into those two actions.

October 19, 2020, this was the request in the agenda packet. It says per the purchase contract condition, the Huntersville Town Board approved a conceptual plan on November 18, 2019. That was the first plan. Due to the acquisition of additional land, the plan layout has changed thereby requiring Town Board approval of a new conceptual plan. That’s what’s happened.

Let me show you the attachment of what November 18, 2019 was. That was before the developers acquired more land and you will see the front of Gilead Road says non-residential use on ground floor with residential above. It has a breezeway and then also at the corner non-residential use with ground floor with residential above. In the back of Gilead Road, it has residential/non-residential use on the ground floor with residential above. So that was the conceptual plan approved in 2019. The conceptual plan that was in the agenda packet on October 19, and also on November 2, is what you see here. October 19, 2020, the concept plan was discussed. A tremendous amount of discussion on non-residential floor area where the leasing area was, there was talk about a vehicle pass-through among other things, and that that was continued until November 2, 2021. All of the minutes are available online from the Town website.

Ultimately it was continued to November 2 and that concept was approved. That concept plan is just as you see it here and it says 12,000 sq. ft. of non-residential. I will note that if you look at this note right here it says non-residential space provided up to, not to exceed 12,000 sq. ft., so they didn’t know how big their building was going to be so they didn’t want to commit to 12,000 sq. ft., but there would be not exceed 12,000 sq. ft.

Now I’m switching to the rezoning plans. There was a quite an evolution of the plans and I’m showing you the evolution of the plans. We actually got six plans from the time they first came to us to the time it went to Town Board action on January 19, 2021. Upper lefthand corner 7-8-21, so that’s the plan that came into staff. It substantially matched the conceptual plan of that first drawing that came in. Staff was not in favor of that and felt like there needed to be all commercial on the first floor facing Gilead Road and the leasing area should not be counted either.

The second floorplan which was actually brought to the public hearing was dated October 5, 2020 and that plan was actually submitted to us 8-24-21. You will notice the ground floor non-residential is plus or minus 7,200 sq. ft. and the leasing ground floor is non-residential is 3,700 sq. ft.

You may recall, if you look where the driveway is for Town Center, and you will notice that there is no connection through this. What I want to mention to you.....so it’s right here. During this public hearing the Town Board explained to the developer we don’t want to see the leasing up there, we want to see a vehicular connection from the parking lot to the building and so ultimately the third, fourth and fifth plans that came in that were presented at the public hearing 11-2-20 and 12-7-20 showed that....showed the leasing area outside of the shaded area, which they are presuming to be the non-residential area. You will notice that the leasing area is now outside of that shaded area and you will also notice the pass-through. There was evolution of this plan as you may well know and remember, but ultimately the sixth plan came in on January 5, 2021, and that was the one that was presented to the Town Board on January 19, 2021. That’s the plan that has the notation in there about ground floor

12,000 sq. ft. It's got some other comments in there and I'll show you a plan that's a little bit more blown up than that.

As Commissioner Kovacs said, the motion that Mr. Walsh made was quite lengthy. This is the motion in its entirety. What's highlighted in red is the area that Commissioner Kovacs mentioned and it says "With those provisions it is reasonable and in the public interest to rezone 9.947 acres (as described in Attachment B of the Staff Report) from TC, NR and GR to Town Center Mixed-use Conditional District Rezoning Plan as provided in our packet and dated January 5, 2021, to permit 12,000 sq. ft. of commercial space which is not to be used for leasing, exercise or other amenities associated with the apartments and no more than 134 apartments, 41 townhomes and 11 single-family homes. That is the motion.

This is the plan that was approved. The plan dated January 5, 2021, says modification is being requested to allow for more than 50 percent of the ground floor to be for residential use. It does show ground floor non-residential at 12,000 sq. ft. and then it goes in the highlighted area it starts to talk about what could be considered non-residential and won't be considered. Non-residential areas may include commercial uses, restaurant uses, retail, office, entertainment facilities, a pedestrian pass-through, stairwell and elevator area, but shall not include administrative/leasing offices or clubhouse area that are accessory to the multi-family use. The requested modification that was also on the plan says residential uses may constitute more than 50 percent but no more than 66 percent of the first-floor area in the portion of Building A located on Gilead Road.

That was the conditions that were on the plan. None of us had the floorplan. We did not have a floorplan. The developer did not have a floorplan of how that building was going to be laid out. They had a conceptual idea and I will note if you see this shaded area, you are going to see a little notation here, that's actually stairs that they shaded as.....I think that they thought it would be commercial. It was not until April 2, 2021, that staff received the first detailed floorplan submitted. This is the plan that we received. Understand this, when you approve a commercial building, there's always going to be backhouse things. There's going to be storage, there's going to be utilities, there's always going to be that. But this is the first time we saw the plan and understood how they were allocating space.

This next slide is the staff comments that we sent to the developer April 13. I'm going to go to the red in the upper righthand corner and show you our comment, my comment was "Shocked that 12,000 sq. ft. for commercial and only 7,453 sq. ft. (60%) available – we were not able to get to that number." We, too, were surprised when we saw that floorplan allocation. Again, we understood there would be backhouse operations, but we did not have any idea how they were going to break this up. I'm going to point out some other comments that we have. I raised a question it seemed like with this jog in here it might be unsafe space, so that's what that says. We did ask the question, the depth of that building is 37'. We were just asking the question is there an ability to lease it, is that deep enough. David Peete and I reached out to other communities and found out that could work, so that was not an issue. The flex-space, our comment here is "If you leave floorplan open for retail client to organize, why create this space?" Why not just let whoever is going to lease that space from you. And then maintenance, it seemed large to us, 635 sq. ft. And then we previously discussed with the developer that they are not going to count access solely for residential as commercial. Those are the comments that we sent to the developer.

The June 3, 2021, updated floor plan was sent to staff. I will characterize this as there wasn't a whole lot of change, if any. There was more refinement showing us how the plan is going to be ultimately built out, but this was the plan that was sent to staff and here are our comments.

We sent this back on June 9 and we again said 7,500 sq. ft. of commercial space represents only 63 percent of non-residential floor area, a very small amount. We knew that the Town Board approved a percentage. That 34 percent minimum of non-residential, but we still felt like this was pretty small. We asked on the flex-space the storage, please provide clarity what this space is for. If it's to serve non-residential then access would be from commercial, not parking lot. We were trying to figure out what's happening here, who does this service. Maintenance area, again it appears excessive, taking away from commercial space and then again we repeated our comment if mail, package, elevator and corridors serve only residential, then they need to be counted towards residential. That was our comments on that second version.

On that second version what I'm showing you now is there was a virtual planning meeting that we had with the developer Shane Seagle, their attorney Susan Irvin, Commissioner Walsh, David Peete and myself. We went over these comments with them and what I want to point out is what's just caps, those were my notes that I was writing as we were having discussion and there's a lot of misspelling, but it was kind of as discussion was going, so understand that. When we asked for them to provide clarity on this space, they said the non-residential storage is shared space and determined allocation based on tenants. In other words, this was going to be for commercial tenants, but all of them get to use it. That's why they didn't have the one door in this business here. Again, I want to explain that space was for commercial, and they explained why the door doesn't go to this is because every commercial tenant in here gets to use that space, that's why they had the door there. That's what was said. We said that the maintenance area seemed excessive, and they said that's needs based on experiences from other properties. I'm not in a position to argue that and then we mentioned about the elevator space and the package space and which is going to be counted towards residential, you can't use it for non-residential purposes.

This is the plan we talked about and they were going to revise it and we received an updated floorplan the next day, June 18, 2021, and that floorplan these stairwells then became residential, that became residential and the percentages worked out to just over 34 percent non-residential and I reached back out to Commissioner Walsh to say here's the final plan, is this consistent with your motion and the answer was yes, and so I sent an email to Shane Seagle on June 25 that that floorplan was consistent with the motion.

What I'm showing you, this is the floorplan that we talked about with Commissioner Walsh at the time, June 18, and this is the plan that we just approved in September. The reason that I'm flipping back and forth is the only thing that really changed was they had a riser room in here and that riser room got moved over here, so you will see it, it kind of got moved up here, so again it's more refinement of the plan. That was approved by us in September 2022.

The last thing I want to go over with you is Anthony Roberts asked the developer specifically what's just solely dedicated to the commercial uses, the backhouse and what's the shared space which is the lighter blue. What's shown in this red area is the most recent site plan with shading out of what area was strictly for the commercial use. The lighter blue is the shared space and then the green is the residential and it comes out to 9,704 sq. ft. I will also point out that the traffic impact analysis was considered with 12,000 sq. ft., so even though they've got in here trash compaction and maintenance and storage, all that is calculated for figuring out the traffic impact analysis, so that was figured at 12,000 sq. ft. We did figure out the parking less what they call the Paseo, which is just this pass-through here, they took that out for figuring out the commercial parking required.

Your last slide has a summary of everything that kind of went on and so with that I'm happy to answer any questions, try to address any issues that you have.

Commissioner Kovacs said I'll start with the last since that is the page I'm on, the one you just had, if both of those electricals are only for commercial, where's the electrical for the rest of the bottom floor.

Mr. Simoneau said this is the electrical here. I don't know about this one here. I didn't shade this. I don't know.

Commissioner Kovacs said so that big one is only for commercial.

Anthony Roberts, Town Manager, said the purple one that's near the breezeway, and this one is slightly different because they moved the riser up to the north part of the plan, but the electrical near the I'm just going to say the breezeway, that was the only thing that they took credit for with the bottom commercial non-residential space. I think that was they said 90/10 85/15 split, so 85 to 90 percent of that would be used for commercial, but everything else on here shaded is 100 percent commercial. What I was trying to get at is you know you saw these plans it referenced and like I said I'm just rounding numbers 7,500 sq. ft. I wanted to get at what is actually commercial. I know we use residential, non-residential, but I'm just being simplistic, what is actually going to be used for 100 percent commercial or fairly close to 100 percent. I didn't count when I talked to them about mechanical rooms that was more of a 20/80 the other way. It may be 80 percent of it was used towards residential and 20 towards commercial. I didn't mark any of that or put any highlights on that and some of these other little smaller uses, even the mailrooms and things like that were a 10 percent maybe commercial and a 90 percent residential. When I was highlighting this or having that conversation, we didn't shade in any of that. Hopefully that brings a little clarity.

Commissioner Kovacs said in response to that, what is the definitive percentage split that's acceptable.

Mr. Simoneau said if I'm following you, say well if a certain area was 80 percent this and 20 percent that, is there anything written down definitive. The answer to that question is no. What we said when there was a blank floor plate is if you have shared space, we would count that towards non-residential and anything that was solely for residential we'd count for just residential.

Commissioner Kovacs said you said the flex storage.....I believe when you were presenting this you said that when you asked them they said the flex storage was for both residential and commercial originally.

Mr. Simoneau said no, I apologize. It's intended for all commercial and they explained to us....our thought was if it's for commercial, why doesn't the door go to the commercial space and why does it go out the backdoor. And their response to us was all of the tenants in this building, the commercial, will be able to use it. That's why they have that door on the outside.

Commissioner Kovacs said for like storage of materials.

Mr. Simoneau said for anything non-residential, so that's why it is shaded in that color as well because it's for all the tenants of the commercial space.

Commissioner Kovacs said Commissioner Phillips, sorry to put you on the spot. Your family owns a business. Would you put any of your items in a shared storage space.

Commissioner Phillips said no.

Commissioner Kovacs said I asked another business owner and they have it in the back of their store, other people don't have access to it. I don't see the likelihood of that being just especially because if you are in a commercial Building A you have to walk all the way around, go through the pass-through and then go over just to access that.

Mr. Simoneau said you will notice the floorplans, there's no details as to where the kitchen facility is going to be, where the bathroom facility is going to be, so there's upfitting. When we issue permits, there's upfits. My point simply is if that's for commercial space, you certainly wouldn't intermingle commercial space of businesses and anybody can take anybody's stuff, so the expectation would be they would upfit that to secured space in there and so it might be a smaller closet but that's my response. I wish the developer were here to explain to you that, but that is how I see that.

Mr. Roberts said I think originally when Jack said that this was going to be maybe entered from the exterior, on the follow-up meeting when I was trying to figure out what was truly commercial, a comment was that depending on the tenants, we may carve up that space so it may be you knock out that back wall and it may be part of another space, it just depends. As they are getting tenants in.....sort of like you see here. If you looked at this, you would say well there's only going to be two tenants. Most likely it would be somewhere between three and four tenants, no matter what you do it's probably going to be three or four tenants, three more likely, so in that conversation that backroom or that flex-space, depending on what the tenant wants or how much space, that may be eat up into another space and then they may have.....depending on the use, they may have in some of this space you see that's shaded in purple, you may have a back of the room closet like Stacy's store, those kind of things. It just depends.

Commissioner Kovacs said Commissioner Walsh was contacted two times to clarify what he meant in the motion. I guess Ms. Sloop, legally is he the only one that needs to be contacted.

Emily Sloop, Town Attorney, said in terms of the motion itself, I would point out that first of all when I review motions for legal sufficiency, I'm looking to see whether or not they have a legally required consistency statement and reasonableness statement. I never tell commissioners what to put in their motions. I also want to point out that yes, he did send his motion to me to review, and I did not tell him to include the reference to the plan in the package or the date.

Commissioner Kovacs said that's what I was trying to clarify, is that you told him that it looked good and then later it was added, not by you, but by Commissioner Walsh.

Ms. Sloop said and as to who would be contacted, typically yes, you would go back to the person that made the motion and in this particular case the motion was actually displayed on the screen for all of the other commissioners to see that same night, so if there was a question about what the motion meant, it would have been up to the commissioners at that time to ask for clarification of the motion.

Mayor Bales said would it not have also been important for staff to help with the clarity as well.

Ms. Sloop said that's true. If Planning Staff did not understand the motion that was made, they likely should have asked as well.

Commissioner Munger said when it says to permit 12,000 sq. ft. of commercial space, which is not to be used for leasing, exercise or other amenities associated with the apartments. I'll stop there. That's what I voted for. That is absolutely what I voted for. I know that we don't all agree with everything, but I voted for 12,000 sq. ft. of commercial space, not non-residential, not a pass-through, not some storage, not electric, 12,000 sq. ft. of commercial space. I read the motion. That's what I voted for. And that's why this one.....I don't know.

Mr. Simoneau said I certainly feel like we're on the spot here, but this was the notes on the plan. When we saw the vote, we saw this is the vote. The 12,000 we took as basically up to 12,000 just like that first plan and the developer had no idea what percentage or how big the building's going to be and so that's why they included the percentages in there. I can appreciate that comment, I just want to be clear that the January 5 dated plan had this on it and that's what was approved.

Commissioner Munger said I do need to accept my own responsibility for missing that particular portion. A lot of it from our perspective is when we put together a motion, we think we are covering everything that is meant by our intent. We are trying to put together a motion.....you can see this motion, this is no small motion. There's not a lot of ambiguity. We are trying to nail it. We're trying to say exactly what our intent is. Is it possible we might have overlooked a note. I'll own that, absolutely. I probably overlooked the note. When I look at this motion and I say this is our intent, this is how we speak, this is how we try and convey what we are trying to get. I appreciate what you are saying, and I have to own my missing a note, absolutely, did it.

Mr. Simoneau said we always consider backhouse a part of the commercial, so where I see the differences is the shared space going to non-residential, but the spaces that are going to be storage for just the businesses itself, that type of thing, is that what you consider because some people will see that commercial as that's the retail space.....everybody could see a little bit different shade of.....

Commissioner Munger said can we flip to the map, the one with the purple shading. That flex space storage, I'm not going to argue against it. I'm going to say that eventually that could probably be something commercial. When I look at that Paseo or that breezeway, show me a door to commercial. It's not on there. It's purely residential. It essentially allowed people to walk through the buildings. If NorthState wanted to lead us to believe that was commercially related, at least have a door that goes into a commercial. That's my opinion.

Mr. Simoneau said my comment would be that the Board asked specifically for a pass-through underneath the building for parking. Parking happens all behind that building, so I see that comment and I say well that's commercial because if I'm parking in their parking lot and I want to go to the business, I've got to go through that thing to get to the door.

Commissioner Munger said that's a fair statement.

Mr. Simoneau said everybody can bring to this a different perspective, but that would be my comment there.

Commissioner Munger said that's really the only question I had.

Commissioner Kovacs said with the pass-through, did y'all mean the one at the top.....when the Board asked for it. I wasn't on the Board so I'm asking.

Mr. Simoneau said that's this right here.

Commissioner Kovacs said that's what they asked for?

Mr. Simoneau said the Town Board asked for that because.....I think I actually have a plan.....this was presented at the October 5 meeting and the Board was concerned that if you have a retail business in here and they have to drive down Public Street A, then turn and go down to Public Street B, and then find a parking space, they are just going to go right into the parking deck. Some of you might shake your head and say oh yeah, I remember those discussions, oh yeah this is going to be.....so now they are going to use our deck and so there was a request that there be a connection there and it's right across from our point to get the businesspeople parking into the parking lot as quick as possible. That was the original plan on October 5 and then ultimately what got approved was this is a vehicular pass-through area that gets you to the parking lot.

Commissioner Munger said thanks for that background, I appreciate that.

Commissioner Boone said I have two questions. The first question is you have a commissioner that made the motion, you've called him and asked him to explain, why not call somebody that was on the opposite side to get their input to counter anything that was said on the other side of the argument.

Mr. Simoneau said as the attorney mentioned, the motion was for approval and that was the prevailing motion, so I went to the person who made the motion to ask is this consistent with their comment. And you are asking me why didn't I ask a question of somebody who voted against the motion or other people that voted for the motion.

Commissioner Boone said anybody that voted against it.

Mr. Simoneau said again, hearing what I'm hearing at the dais here, that concerns me that I didn't, but I will tell you I went right to the person who made the motion. The attorney said that's the appropriate thing to do when there's clarity needed. That's what I did, and I felt like if the commissioner who made that motion felt like we are going off kilter, let me talk with our other commissioners, that would have been done. You may not be satisfied with my response, but that's how I would respond to that question.

Commissioner Boone said that didn't happen, he answered for the entire Board.

Mr. Simoneau said he answered for the Board that voted for it, yes sir.

Commissioner Boone said my last question is that the original application by NorthState, they wanted 6,100 sq. ft. of non-residential and then they agreed to increase it to 12,000 sq. ft. and has excluded the leasing office, the other apartment related uses from this space and I'm quoting from the public hearing notes of 11-2-20. And to me we've kind of got a disconnect. You've got somebody talking about non-residential space and then somebody using another term meaning commercial and the term commercial was used in the motion, but I don't see that up here in any of the plans.

Mr. Simoneau said in the plans, as you can see, from the time they came in the door to the time they were approved, used the term non-residential.

Commissioner Boone said you told them three times that the maintenance room was too big and they just say the heck with that, we're not even going to deal with it.

Mr. Simoneau said we were questioning because we wanted to see more commercial space, not back of house stuff.

Commissioner Kidwell said who seconded the motion?

Mayor Bales said Commissioner Munger.

Commissioner Kidwell said Commissioner Munger, you were not contacted, correct.

Commissioner Munger said correct.

Commissioner Kidwell said I just wanted to clarify that. One thing that sticks out to me, well a couple of things stick out to me, but their terms of non-residential versus even now even when you were talking about it, you were talking about commercial, when it goes back to Commissioner Munger's intent. The intent was commercial. I think staff saw it as commercial and words have meanings. They kept going non-residential and if they keep just saying non-residential, we keep saying commercial, but they never acknowledge it, it really puts us in a bad spot because they can say they never said commercial on anything. I think this goes to a lesson for this Board and other boards going forward and I've said it from the dais, I've said it off the dais, and it's not a slight at developers, but it's hard to trust developers. Developers are in it to make money. They are going to want to buy the land from an individual or individuals for the least amount of money. They are going to come in and tell you and they've told people who have owned farmland out here, your farm is not worth what you think. Your land is not worth what you think. Then flip it and build and sell and put something on it and say this land is so expensive that's why this costs so much. Developers are in it to make money. They are kind of like used car salesmen. I used to sell cars, so I'm not trying to slight them either. It's a tough business. But they are going to tell you whatever it takes to get that property and to get things moving. There's a lesson there for the Board to make sure that when we say non-residential or we say commercial, we want it in writing and we want them to acknowledge that. Their idea of not knowing how big the building was going to be that from my standpoint is alarming, not to staff but to the developer. Who submits plans with numbers and just thinking well we don't know how big it's going to be. I've built houses. I know how big that house is going to be and when I say I built houses, I was the foreman of the construction. I wasn't building for myself, so I had a plan. This is going to be a 4,200 sq. ft. home. We are going to build a 4,200 sq. ft. home. We are not going to be like hey we are going to start with 4,200, we may end up with 3,800. But it will be cool. That's alarming to me, and I think that should be alarming to anybody that does business with a developer that doesn't know how big a building is going to be. And I think the final thing is the lack of communication when it comes to the storage. I appreciate staff asking over and over why is your maintenance area so big. That's a lot of space for a maintenance room I agree. I could put some drill presses in there. I could cram that thing out with shelves. That's for a manufacturing facility. I can easily fill up 680 sq. ft. for a manufacturing facility. My mother she ran a retirement home in Kansas City, Kansas. There was a maintenance shop. There wasn't an office in the maintenance shop, there was a desk in the maintenance shop. It wasn't segregated. That maintenance shop might have been tops 350 sq. ft. because it's standard electrical supplies, your plumbing supplies. If you've got to bring anything in big, like doors or whatever you are having them shipped in. You're not keeping them on hand. I think they did a real disservice and disrespected the Town's staff by not answering that question. I'm sorry that happened. I obviously wasn't on the Board when this motion was approved and Commissioner Munger, I understand how this sucks for you, because you seconded it with the

intent of thinking 12,000 sq. ft. commercial space, 12,000 commercial is going to spawn some growth in downtown Huntersville. That's how it was kind of shelled out. Those are the cards that were being thrown at everybody. Hey guys, yeah we are going to put a lot of apartments there, yeah we are tearing down a lot of trees, 12,000 commercial space, it's going to be beautiful, restaurants are going to come in, nightclubs, Vegas lights, I'm kidding, but you get my point. I guess the bottom line is what can be done now, if anything.

Mr. Simoneau said I would say the die has been cast. We have approved that. Lessons learned, if somebody comes in and they are going to have a mixed-use building or a commercial and residential, we would want to see floorplans. Now we start to see how much could be used up for the floor space. Having said that, every business is different. If you were to look at the brewery across the street, about half of that building is the public space and the other half is kind of back of the house. It's a brewery. My point simply is we don't know what the users are going to be in these buildings and even when we do, one business goes out, another one comes in and we get upfit permits to modify floorplans and walls. It's a constantly evolving floorplan whenever we issue a permit for a shopping center because it's just the bare outside walls and then the interior gets modified as tenants come and go.

Commissioner Kidwell said I would say this, it's a suggestion, as we learn from mistakes that have happened. When we do have buildings come in, commercial or what not, or we have upfit requests, we are lucky enough in the Town of Huntersville we have a lot of these types of businesses in buildings around that we've approved in the past that we could go to the owner. We are not sharing trade secrets, we're not saying you are building a brewery over here, we run down to Primal talk to one of the owners and say hey, you own a brewery, does this seem right. We are not sharing the recipes, but just what they would think. And they may say yeah, that seems.....it's just another level of eyes looking at something and I know you guys are qualified. I've worked with you a number of years. I'm just throwing that out there. But I do appreciate you putting everything together.

Mr. Simoneau said I will point out another possible text amendment is when it says up to 50 percent residential on the first floor but the rest non-residential. We could clarify the text to say and the non-residential shall not include any shared space. We could clarify and have it actually in the code so that as developers move forward, they know what is expected of them.

Mayor Bales said Commissioner Phillips, do you have something to say before I close this up.

Commissioner Phillips said I was one of two who opposed this project. I don't know if it was due to COVID or what, but there were conversations on both sides of it, because we were stuck at home, and I want to say that I know the intent of Munger and Bales through this was to do the right thing. My feelings have been so hurt for them as fellow commissioners because it has put into question their integrity with no fault of their own. Going forward I think if anything like this ever happens again, at the barest minimum we need to change our policies and procedures that if there are things brought to question, the second has to be in these meetings because a motion doesn't have any validity without a second, it dies. And sitting here and hearing these two people, I don't want to put words in your mouth, but I can see that you guys are frustrated. I see that there's some remorse because you didn't get the intent of what you were doing and I don't want to put another board through this again. I don't want anyone else to ever have to.....you guys are carrying all this weight that was not your fault and it should be better, so if there's any way to change policies and procedures, at the barest of minimum I think that's something we must do.

Mayor Bales said from where I sit this will never happen again because we will be putting things in place to make sure that if there is something called into question between notes on a plan and the motion that it is reaffirmed with all those commissioners. The second thing that I do believe we need to make some changes around is moving forward from where I sit and this is for you Mr. Roberts, when developers come in with plans we need to make sure that planning staff is getting it to legal so that there is nothing, so that this Board who relies on staff whether it's Planning and Legal to make sure that we are staying within our rails and that we are getting exactly what we want. We need to make sure that the Legal Department has the opportunity to go through those notes and go through those plans and we as a Board when you are making motions I would highly encourage you if you do not already do this, run those motions by Legal so that if she's looking and the Legal team is looking at those plans and looking at those notes, and then you are giving her a motion, that she can make sure that they are lined up and that this Board, this town, gets exactly what we are asking for, because from where I sat 12,000 sq. ft. of commercial non-residential space for retail, restaurants and business, that's what I expected. And that's what our citizens expected so the other piece for me, 15 months after there was a meeting I find out, Commissioner Munger finds out, that was very frustrating.

Mr. Roberts said I was just going to say from hearing all this if it's okay I would like to come back at the next meeting maybe with some policy and text sort of changes that are needed to help address for instance, clear up the commercial or non-residential/residential and then also more of a policy on if there's any discrepancy that we go back to the Board and you may change it but at least to all the folks who said yes and make sure they are all on the same page so we will come back with some proposed language and then you give us some feedback to tweak and we put this ball in motion ASAP.

Commissioner Munger said I just want to add one other thing, not just running everything by legal. Once legal has done it and we have the motion together, the feedback I got from you Jack is it might be useful for Planning to look at the actual motion to make sure that the intent of the motion matches the wording. I think it is a two-way street.

Mayor Bales said I genuinely hope that we never find ourselves here again and that the safeguards that will come out of this, the safeguards that we will put in place, will make sure that what we are approving, we get.

Commissioner Kovacs said I will have more questions, but you all will hear from me and I'll share the information when I get it back.

**REGULAR MEETING
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall, 101 Huntersville-Concord Road, at 6:00 p.m. on October 3, 2022.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the meeting to order.

Mayor Bales called for a moment of silence.

Mayor Bales led the Pledge of Allegiance.

STAFF QUESTIONS

Commissioner Partee requested Police Chief Bence Hoyle make an announcement. Chief Hoyle announced tomorrow night is National Night Out.

Commissioner Kidwell expressed appreciation to staff for their work during the recent hurricane.

Commissioner Boone expressed appreciation to staff and ElectriCities for their work during the recent hurricane.

Commissioner Phillips expressed appreciation to Public Works for their work during the recent hurricane.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

David Torres, 8923 Cinder Lane, said there's a company that's developing land on April Mist. I think it's your Item 9.B. I'm just here as a resident that I'm in full support of it. It's rare you get to pick your neighbors, but this community here is similar to what they've already developed up in Davidson at Williams Place or over in Charlotte at Shads Landing. It's actually a nice community and I think it will help property values. You don't have to worry about the residents going in and doing things in the neighborhood that if you add more housing, you may have problems with children coming in and you know, children will be children, but active genarians pretty much don't go out and disturb anything, so that's a plus. The aesthetics of it I think are going to look good. I also want to comment that a fellow resident who couldn't be here tonight, David Wolf, he is also in favor it.

Audra Collins, 8904 Sutherland Drive, said I am here to talk about the development in what would be Barnes and Noble, and Dick's Sporting Goods. I am mentally ill and during my depression, Barnes and Noble was my home away from home. When I needed to leave from my house, that's where I would go. I would take an Uber or I would have my parents drive me there. Barnes and Noble got me into reading and reading was my escape from school when I was bullied. It got me into writing. I just don't know what I would do without it, honestly. It definitely did change my life. I have lived here for 23 years out of my 25 and I can't even remember when it was built. That's how long I've been going. I don't know what I would do without it, so I hope you vote against that.

Jill Brown, 8361 Brickle Lane, said I'm here to talk about 9.D and 9.E, and my question is what procedures have been taken to determine if our area water and sewer systems are capable to accommodate the increase in population due to the proposed residential apartments and industrial growth.

Mayor Bales said this isn't a back and forth, if you would just finish your comments.

Ms. Brown said I'm finished.

Mayor Bales said Ms. Brown, you came to speak regarding the public hearing, along with Ms. Collins. I apologize to both of you, what I will do is have you both come back when we get to that public hearing

and allow you to speak a second time. Normally, this time period is open simply for comments and I want to make sure that we get that in the proper order.

AGENDA CHANGES

Commissioner Boone made a motion to remove from Other Business Item 10.E (Consider adopting resolution and approving purchase agreement to acquire property for future Public Works Facility).

Commissioner Phillips seconded motion.

Motion carried 5 to 1, with Commissioner Kidwell opposed.

Commissioner Phillips made a motion to adopt the agenda, as amended.

Commissioner Boone seconded motion.

Motion carried 5 to 1, with Commissioner Kidwell opposed.

CONSENT AGENDA

Supplemental Agreement – US 21/Gilead Project. Commissioner Phillips made a motion to approve Supplemental Municipal Agreement for modification of signal pole type on the NCDOT US 21 at Gilead Project. Commissioner Munger seconded motion. Motion carried 5 to 1, with Commissioner Kidwell opposed.

Agreement attached hereto as Exhibit No. 2.

Second Amendment Capital Project Ordinance – Huntington Green Sidewalk Project. Commissioner Phillips made a motion to approve Second Amendment to the Capital Project Ordinance for Huntington Green Sidewalk Project. Commissioner Munger seconded motion. Motion carried 5 to 1, with Commissioner Kidwell opposed.

Second Amendment to Capital Project Ordinance attached hereto as Exhibit No. 3.

Municipal Agreement – The Park Huntersville Greenway. At the October 5, 2020 Town Board meeting, the Town Board adopted the resolution to amend the Capital Improvement Program (CIP) and to apply for the Charlotte Regional Transportation Planning Organization (CRTPO) Grant for The Park – Huntersville Greenway. The Town's 50 percent local match for this project is \$1,746,000. The Town was awarded the grant in December of 2020.

In February 2022, CRTPO added this project to an accelerated list, bumping the project up for planning and design from FY25 to FY23. The Town Board approved the planning and design funds in the FY23 budget. The CRTPO Grant will reimburse the Town for 50 percent of the funds budgeted. This Municipal Agreement must be approved prior to starting this project.

Commissioner Phillips made a motion to approve Municipal Agreement between NCDOT and the Town of Huntersville for the design and construction of The Park – Huntersville Greenway. Commissioner Munger seconded motion. Motion carried 5 to 1, with Commissioner Kidwell opposed.

Municipal Agreement attached hereto as Exhibit No. 4.

Road Closure – Veterans Day Parade. Commissioner Phillips made a motion to adopt Ordinance to Temporarily Close Certain State Maintained Roads for a Special Event Organized by the Town of Huntersville. Commissioner Munger seconded motion. Motion carried 5 to 1, with Commissioner Kidwell opposed.

Ordinance attached hereto as Exhibit No. 5.

Call for Public Hearing – Cowan’s Ford – Davidson College Monument. Commissioner Phillips made a motion to call a public hearing for Monday, October 17, 2022 at 6:00 p.m. at Huntersville Town Hall on the question of designating as a Historic Landmark a structure known as the “Cowan’s Ford-Davidson College Monument,” including the monument in its entirety and a 15' radius of the land immediately surrounding the monument, measured in each direction from the central point of the monument, all as associated with the property listed under Tax Parcel 00902102, located at 14910 NC Highway 73 and owned by MDHB Properties LLC. Commissioner Munger seconded motion. Motion carried 5 to 1, with Commissioner Kidwell opposed.

Call for Public Hearing – General William Lee Davidson Monument. Commissioner Phillips made a motion to call a public hearing for Monday, October 17, 2022 at 6:00 p.m. at Huntersville Town Hall on the question of designating as a Historic Landmark a structure known as the “General William Lee Davidson Monument,” including the monument in its entirety and a 40' radius of the land immediately surrounding the monument, measured in each direction from the central point of the monument, all as situated on the property listed under Tax Parcel 01315102, located at 5455 Cashion Road and owned by Duke Power Company. Commissioner Munger seconded motion. Motion carried 5 to 1, with Commissioner Kidwell opposed.

Call for Public Hearing – Rural Hill Directional Marker. Commissioner Phillips made a motion to call a public hearing for Monday, October 17, 2022 at 6:00 p.m. at Huntersville Town Hall on the question of designating as a Historic Landmark a structure known as the “Rural Hill Directional Marker,” including the marker in its entirety and a 38' radius of the land immediately surrounding the marker, measured in each direction from the central point of the marker, all as situated on the property listed under Tax Parcel 01301250, located at 6645 Neck Road and owned by Herseng Yang. Commissioner Munger seconded motion. Motion carried 5 to 1, with Commissioner Kidwell opposed.

PUBLIC HEARINGS

Petition #R22-04 – 15901 Cramur Drive. Mayor Bales called to order public hearing on Petition #R22-04, a request by Jeremy Martin to rezone +/- 1.29 acres located at 15901 Cramur Drive (Parcel 00102370) from Neighborhood Center and General Residential to Highway Commercial - Conditional District.

The applicant has requested this public hearing be continued to January 3, 2023.

Commissioner Boone made a motion to continue public hearing to January 3, 2023, at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road.

Commissioner Phillips seconded motion.

Motion carried unanimously.

Commissioner Kidwell said point of order. Before we get into the public hearings, just a reminder per our policy each applicant has 15 minutes total, not including questions.

Petition R22-03. Mayor Bales called to order public hearing on Petition #R22-03, a request by Alan Spragins for Hawthorn Devco, LLC to rezone +/- 9.219 acres located at 6925 April Mist Trail (Parcel 01516113) at the corner of Beatties Ford Road and April Mist Trail from Highway Commercial - Conditional District to Neighborhood Residential-Conditional District.

Jack Simoneau, Planning Director, entered the Staff Report into the record and reviewed the history of the property and the rezoning request. *Refer to the Staff Report and Staff PowerPoint attached hereto as Exhibit No. 6.*

Staff recommends approval as submitted as the proposal is consistent with the Huntersville 2040 Community Plan Policies LU 2.1, 10.5, EOS-6, and PS-5.1, as well as the design recommendations within the Beatties Ford Road Corridor Small Area Plan. Although this project does not provide the mix of land uses detailed in Policy LU-6 by removing commercial uses in this Activity Center, it does diversify the housing option and it is consistent with the surrounding neighborhood's character by preserving the rural landscape of the Beatties Ford Road Corridor.

Commissioner Phillips said a concern that I do have is Neck Road and Beatties Ford. Are there any upgrades in the future to straighten that curve out to make it a little bit safer as we increase our population.

Stephen Trott, Director of Engineering, said in the CIP there is a project in a future year to make improvements at the intersection of Beatties Ford and Neck Road.

Commissioner Kidwell said the plan shows sidewalks here, but here in Huntersville we have a lot of sidewalks to nowhere. This is one of them. It just kind of ends where this other parcel is. Is there any way, and I don't know if we have to take it to the developer or how this goes, to connect it to where that emergency stub is going to, right there at the bottom corner going up to that stub, is there a way to get a sidewalk so that walking path connects to the neighborhood increasing the connectivity.

Mr. Trott said yes, staff can work with the developer on figuring out any possible options on that.

Commissioner Munger said why aren't we connecting that road.

Mr. Simoneau said if this was a subdivision, in other words it was not just one building on one lot, we would connect the road. But this is just one building, one lot. That is why we are not doing it. We are working with the Fire Marshal for a second entrance and exit for emergency access only.

Commissioner Partee said I just want to inform my fellow Board members that I live in Latta Springs, right across the street from this development. During the summer the HOA organization from Tanners Creek and Latta Springs asked me to sit in on one of their meetings. I thought I was going to walk into a hornet's nest, but exactly the opposite. They support this project and moving forward I think we have a good development here that's going to fit right into the community.

David Torres, 8923 Cinder Lane, said there really isn't a downside to this. To me it looks like it's just something that will enhance our neighborhood. I personally as a homeowner am very much in favor of this and I hope you all approve it.

Kristi Neznanski, representing Hawthorn, 2260 McGilchrist Drive SE, Salem, OR, gave a brief history of the company and reviewed the proposed project. *Refer to PowerPoint attached hereto as Exhibit No. 7.*

Commissioner Partee said what security do you have for the facility.

Ms. Neznanski said our building operates very similar to a hotel in that there are keycard accesses to all the building exits and entrances so residents can come and go freely. The visitor entrances are monitored by staff and then they are locked after hours.

Commissioner Kovacs said I wanted to say thank you because I was at the pre-development meeting and I do see a lot of the things that we brought up or had comments about have definitely been addressed and there's been a lot of communication with the residents. I wanted to know if you know the cost of these yet.

Ms. Neznanski said it's 2022 now, we'll probably start construction in 2023, and it will open in 2025. With the current economic climate, it's hard to project that. I can say with our existing facilities, our studios run in the high \$2,000's and then our two bedrooms can be \$5,000, but our average rent is about \$4,000 a month. That includes all utilities, all meals, all the services.

Commissioner Kovacs said will you have any low or affordable housing in there.

Ms. Neznanski said it's all market rate but because we offer a lot of different sized units, there's a wide variety in price ranges that are available. Regardless of whether you have the smallest studio or the biggest two-bedroom, the services, the meals, the amenities, the care that you get is the same.

Commissioner Munger said Exhibit A, Capital Contributions, Hawthorn IL Propco, LP, which you represent, correct?

Ms. Neznanski said I represent Hawthorn Devco LLC, who is currently under contract to purchase the land and Hawthorn Senior Living is the operator. I think what you are talking about is the management company.

Commissioner Munger said on this it says capital contribution of \$10 which gives them ownership percentage of 100 percent. I'm just looking at this like, surely you are investing more than \$10.

Ms. Neznanski said I think that's in the management contracts, so I'm not super clear on that. I can get back with our team and find out what that means.

Commissioner Munger said that would be great. I have a feeling it's a hoop that people have to jump through and they're just filling out something and we kind of got branded tonight with something, so I want things to be 100 percent clear. If you are putting \$10 million, I want to see that number say \$10 million.

Ms. Neznanski said what you are looking at is the management agreement between the ownership LLC and the management LLC. It doesn't relate to the contributions or capital improvements planned for here. You are correct, this is a \$30 million project.

Commissioner Munger said what are the van transportation hours.

Ms. Neznanski said I'm not completely sure. Our front doors are open from 8 a.m. until 8 p.m., but I can definitely get back with my operations team and confirm that.

Commissioner Kidwell said I think you heard my first question about the sidewalk connecting to the stub for the emergency traffic. As I said, my mother ran a retirement facility. They like to go walk and get their steps in, exercises like that, but on the second fold because you are close to a high school it's to keep people who may be walking to school or riding their bikes on the sidewalks and out of the parking lot. If you could just work with staff in that discussion about connectivity. What's the minimum age for this facility.

Ms. Neznanski said typically it is 55, that's just what's written into our lease agreements. That does allow for some flexibility. We often have couples with an age gap. Our target market is not 55 year olds. They don't want a unit that doesn't have cooking facilities and don't necessarily need the level of services that we're offering.

Commissioner Boone said most of the senior living facilities in Huntersville if somebody falls it takes a Huntersville firefighter to come and pick them up. If one of your residents falls, will one of your management team be able to pick them up or will you have to call a first responder.

Ms. Neznanski said that typically would depend on what happened. One of the concerns that we often have is if somebody does fall and they are in their mid 80's, they could have broken a hip, so our managers have to be careful that they are not doing more damage by assisting a resident, but we know that having residents in our facility reduces the number of emergency calls from seniors who live on their own because our managers show up first, when their oxygen tank isn't working or they need assistance in the middle of the night, our managers are there first. When it comes to falls, we do have to be very careful that we don't injure our residents.

Commissioner Phillips said have you guys spoke with Hopewell High School about the parking because I know Tanners Creek has issues with students parking there. I know you guys have limited spaces, so I didn't know if that's something you guys have already taken into account, the high schoolers trying to use your parking lot.

Ms. Neznanski said I know that David Wolf has been working with the high school and he and I have been missing each other in the last couple of weeks because I know the HOA had a meeting with the school to talk about some of the issues that they've had with the high school. We have been warned that high school activity might be something that we'll need to monitor once our building is in operation, but we don't have an exact plan for that yet.

Commissioner Phillips said have you guys been forewarned about the noise and the sounds from the school from football games and that upsetting residents.

Ms. Neznanski said that definitely won't upset residents. In fact, I can easily see that Friday night football will an activity that our residents will want to go to.

Commissioner Phillips said I love that you guys have a beauty salon. I've never seen that up here so far. What services will you guys provide.

Ms. Neznanski said historically it was just haircuts. Our salons have actually expanded and we have a new design that we are implementing that allows for manicures and pedicures as well.

Mayor Bales said access to the detention pond. Is there access when you are wrapping that detention pond with the trees etc. I was trying to see where that access is going to be since there will be regular maintenance that will have to occur.

Ms. Neznanski said we have been working on that and figuring out exactly where that design is. Our civil engineer is here if we want to get into some of the more technical questions. We do know that we need to have access and we're still sort of negotiating exactly where that's located because we also want to provide screening for the parking areas and also the storm pond. In our last design iteration, the access is from the inside of the site, so from our internal drive versus from April Mist so the landscaping that's along the road frontage will not be impacted by the storm pond access.

Mayor Bales said that's really what I was trying to get to, making sure that the sidewalks weren't messed up once they were laid and the trees etc. would not be disturbed. I'm trying to figure out how you would get in there with equipment.

Jason Dolan, Timmons Group, said it would probably be accessed from those four parking spaces where the vehicles are.

Mayor Bales said the other question that I have is regarding the van transportation. Is there extra cost for it.

Ms. Neznanski said no, there's not. It's all inclusive. The beauty salon is contracted so it's a small business inside and there's contracted hours and people can sign up for those services. I should clarify the haircuts and the manicures and pedicures are not included in the all inclusive.

Mayor Bales recognized Planning Board members present: Scott Hensley and Frank Gammon.

There being no further questions or comments, Mayor Bales closed the public hearing.

Petition #TA22-06. Mayor Bales called to order public hearing on Petition #TA22-06, a request by DDRTC Birkdale Village, LLC to increase the building height limits for hotels or motels and commercial uses within Pedestrian Oriented Developments that are located in the Highway Commercial zoning district.

Nathan Farber, Planner I, entered the Staff Report into the record and reviewed request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 8.*

In 1998, text amendment TA97-25 was approved and added language to create a pedestrian-oriented development within the Highway Commercial zoning district (Article 3.2.7(d)(4)b). The applicant proposed the text amendment in tandem with Rezoning R97-23 as the basis to Birkdale Village. Currently, Birkdale Village is the only approved pedestrian-oriented development in Huntersville.

Pedestrian-oriented developments require mixed-use buildings with parking that is wrapped by buildings to be interior of the block.

Today, DDRTC Birkdale Village, LLC, has proposed to also use this proposed text amendment in tandem with the proposed Rezoning R22-01 to make changes to Birkdale Village. These changes, as proposed, would allow development within Birkdale and any other development that follows the standards of a pedestrian-oriented development in the Highway Commercial district to achieve heights taller than the originally approved three stories or 48'. The text amendment would only allow heights to increase via a special use permit and cap the height to 145'. Parking decks that are associated with the proposed development would also be capped at the lesser of 70' or the height of the hotel or urban workplace building. Any parking deck that is exposed at any point above the surrounding adjacent structures will have to meet strict architectural requirements that aims to help blend the structure into the existing area.

Commissioner Phillips noted her family owns land that is Highway Commercial and asked Town Attorney Emily Sloop if she needed to be recused.

Emily Sloop, Town Attorney, said if you are talking about whether or not you would be in violation of 160D-109, the standard for legislative matters is whether or not you would experience a substantial financial impact that's readily identifiable. Given that this is purely hypothetical, I don't think that standard would be met at this point in time.

Commissioner Kidwell said I don't see any reason for Commissioner Phillips to be recused.

Commissioner Kovacs said what year was Birkdale was built?

Mr. Farber said 2000.

Commissioner Kovacs said so at the time Birkdale was built, 48' was the maximum height.

Mr. Farber said correct.

Commissioner Kovacs said it seems like the people that have purchased homes around the vicinity would be under the impression that the maximum height of where they would live would be 48' to keep that small town feel.....the intention of the 48' was for the small town feel.

Mr. Farber said at the time of the rezoning it was 48'. That was the max height.

Commissioner Kovacs said this says there's no other pedestrian-oriented areas currently. But for the next thing we have to discuss, this would have to be done first, an entire text amendment for one project

Mr. Farber said this text amendment is specific to just allowing the height to go above the current 48'.

Commissioner Kovacs said we would have to change the entire height allowance to even see the next project.

Mr. Farber said this would have to be approved first.

Commissioner Kovacs said I was reading on here reasons for requested change that the proposed amendment is consistent with the goals of the Community Plan including transportation, improved streets and sidewalks and expand transportation options and I just wondered how that correlated with taller buildings.

Mr. Farber said I will leave that for the applicant to answer.

Commissioner Kovacs said was there any reason for this specific height – 145’ or was that just due to the applicant request.

Mr. Farber said due to the applicant request. I believe they do have a presentation.

Commissioner Kidwell said how many stories is 145’.

Mr. Farber said I’m not going to be able to answer that. From previous presentations I believe that can change based on the type of building use.

Commissioner Munger said have we approved any other buildings this height or taller anywhere else in the Town of Huntersville.

Mr. Farber said no.

Commissioner Munger said not in Bryton.

Brian Richards said an exception would be the tower at ABB which is now Southwire that is 402’.

Commissioner Munger said what, if anything will be done to address potential light pollution from new buildings of this height.

Mr. Richards said can we address that during the rezoning, as that is not pertinent to the text amendment.

Mayor Bales said I do have one question and it goes back to Commissioner Kidwell’s question about 145’. I think 145’ isn’t always equal in regards to how you slice that pie. Is that true. It could be 6 stories, it could be 12 stories.

Mr. Farber said I’ll let the applicant answer that.

Mayor Bales said I’d like to hear from Mr. Richards.

Mr. Richards said it all depends on the product mix, depending on what’s the floor plate sizes. If it’s office the first floor typically in a mixed-use building you could have about a 20’ first floor and every floor after that would be different. If it’s an office mixed-use, in between 12’ and 14’ depending on what type of office you want. If it’s a hotel, it’s a 10’ floor plate. Those are pretty standard heights for different industries.

Susan Irvin for the applicant, said I think Nathan did a great job presenting and we don’t have any further information unless the Board has questions for us.

There being no further questions or comments, Mayor Bales closed the public hearing.

Petition #R22-01. Mayor Bales called to order public hearing on Petition #R22-01, a request by DDRTC Birkdale Village, LLC to rezone +/- 8.82 acres located at the intersection of Townley Drive and Lindholm Drive (Parcels 00537157 and 00537197) from Highway Commercial Conditional District to Highway Commercial Conditional District for 350 multi-family units, 125-room hotel, 150,000 sq. ft. office, and 25,000 sq. ft. commercial.

Brian Richards, Assistant Planning Director, entered the Staff Report into the record and reviewed request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 9.*

Petition #R22-01 is a request to rezone 8.82 acres at the intersection of Townley Drive and Lindholm Drive from Highway Commercial – Conditional District to Highway Commercial – Conditional District for up to 35 multi-family units, 125-room hotel, 150,000 sq. ft. office, and 25,000 sq. ft. commercial.

Birkdale Village was originally rezoned in 1996 and has had two revisions (R97-23 and R01-03). Back at this point in time there were separate actions for rezonings and sketch plans, so there would have been two separate motions. Today, they are parallel together. Staff is allowed to administratively approve the sketch plan if it's similar to the sketch plan.

Project summary this is 8.82 acres. It's current zoned Highway Commercial – Conditional District. They are proposing to stay Highway Commercial – Conditional District. Current uses on these two parcels are commercial and office, but the proposed uses are going to be up 350 multi-family units, 25,000 sq. ft of commercial, 150,000 sq. ft. of office and a 125-room hotel and the building types for these will be urban workplace.

Staff's recommendation in considering the proposal R22-01 Staff recommends approval if Text Amendment 22-06 building height is approved and all outstanding comments are addressed.

Commissioner Munger said what will be done to address potential light pollution from new buildings.

Mr. Richards said all of their buildings would need to meet the lighting requirements of Article 8.26, so all fixtures would be full cut-off and there would not be any light trespass on the neighbors.

Commissioner Munger said I understand one of the things on the office buildings is essentially they are timed and 6 p.m. or 7 p.m. lights are going to go off. Hotels are a different story.

Mr. Richards said we would work with the applicant in making sure there's not offsite glare. They may have to put some tint or something on the windows.

Commissioner Munger said currently the parking lot for the Regal Theatre, is that meant to be used by all visitors to Birkdale Village or is it specific to Regal Theatre.

Mr. Richards said when we looked at the project, we looked at the entire subdivision and we make sure that the subdivision as entire entity meets our parking standards. If you were to park at Regal, you could walk down to Brixx and have some pizza and come back to the movies. I can't speak to any internal documents or internal agreements that they have with the separate users, but from the staff perspective Birkdale as a whole meets our parking requirements.

Commissioner Munger said I know Regal Theatre's parent company filed for bankruptcy so that situation has the potential to change. Do we have any concerns about that venue changing, what it becomes and its impact on parking.

Mr. Richards said we would need to evaluate what it becomes at that point in time. Typically, we have got relatively light parking standards. We leave it up to market rate and typically for us it's one space for 500 sq. ft. of non-residential. We'll make sure whatever user comes in that there's adequate parking.

Commissioner Munger said one of the references was Policy LU-11 and LU-12.3 that the staff proposed to enhance architecture of the parking garage. Can you share with us in general what enhanced architecture is proposed.

Mr. Farber said the specific language that we've worked with the applicant on is:

- complement the scale and the character of the nearby development
- have an architectural façade that blends with existing structures
- the facades of parking structures shall include both vertical and horizontal treatment that resembles patterns and architecture of the buildings within the development, including use of similar materials and similar rhythm of window openings. Any openings shall be screened using decorative elements such grillwork, louvers, green walls, or any similar treatment
- a wall blocking cars on the top from being viewed from below

Commissioner Munger said is it best to say that the objective is to make it not look like a parking garage.

Mr. Farber said correct.

Commissioner Partee said I want to ask about the Sam Furr project. We have members of the community who are here sitting in our lobby and I think it's important to see where that project is at right now, what's the future of 73, will it accommodate the amount of traffic from this proposed development. On top of that, I want to hear about how this project will affect the property values of the community that's adjacent to this particular development.

Mr. Richards said we can't speak to the property values. I'll defer the traffic questions to Stephen.

Stephen Trott, Director of Engineering, said the NC 73 project right now is that they are getting ready to start right-of-way acquisition. I believe the estimated construction start time is 2026.

Commissioner Partee said when does the developer anticipate starting this project.

Mr. Richards said within five years.

Commissioner Partee said so we are going to have a road project in addition to a development, if approved, being built at the same time.

Mr. Richards said correct.

Commissioner Kovacs said just for clarification, why did we defer our TIA to NCDOT.

Mr. Trott said Article 14 of the Zoning Ordinance is modified to provide that option. Many, if not probably all, of the likely study intersections were within the NCDOT TIP project which is another option to defer to NCDOT, so that's the logic behind why it was deferred to them.

Commissioner Phillips said Ms. Sloop, in situations like this are we allowed to base our votes on the lack of progress from DOT or not.

Ms. Sloop said this is legislative, it's not quasi-judicial, and you all can take many things into consideration that you wouldn't be able to take into consideration with a quasi-judicial process.

Commissioner Boone said what was the date of the TIA by the State of North Carolina. Was school in/school out?

Mr. Trott said they had to do the TIA to meet all of the state requirements, so the state reviewed the TIA and found it acceptable.

Commissioner Boone said but we don't know the date that it was taken.

Mr. Trott said we can certainly look and get that information to you.

Commissioner Kidwell said I'd like to talk about adequacy of public facilities. It talks about what this does to the schools. Bailey Middle, it talks about it would take it to 129 percent; J. V. Washam Elementary, 135 percent; Hough High, 119 percent. I don't know if everybody read the paper, but Rhonda Cheek the current District 1 Commissioner in a meeting with Cornelius talked about how they are moving to make Bailey Middle School just Cornelius residents only, so if this is in Huntersville and it's putting it at 129 percent, where are those kids are going to go.

Mr. Richards said that would be a whole different model.

Commissioner Kidwell said I think that's something for this Board to think about that if CMS, who has not been up here to give us a presentation or emailed us a presentation, is telling Cornelius that they are going to get a new school and it's going to be all their residents, I think it's important that we keep that in mind when we are talking about future development here in this town that impacts that school if they are not going to be allowed to go there.

Mayor Bales said I have asked Ms. Cheek if she would come to our next Board meeting to give us an update like she does with Cornelius and Davidson. Looking at one of the pictures that you had displayed, you had one coming down 73 from Denver. How tall is that netting over at Birkdale.

Mr. Richards said I've been told it's 100'.

Commissioner Munger said I'm going to follow-up on Commissioner Kidwell's question. The numbers that we have related to school, is that 20-day numbers.

Mr. Richards said those are from the 21/22 school year, not the 22/23.

Commissioner Munger said that's my question, I want to see those new numbers.

Mr. Richards said I made note and we will re-ask for that. Hopefully they have the official numbers now.

Commissioner Munger said what I've been led to believe is that those numbers spiked in a big way.

Mr. Richards said I will ask our contact at CMS to update the report.

Mayor Bales said just to let you know, I also asked Ms. Cheek about that and asked her if she would bring those numbers when she comes.

Commissioner Munger said do we have any Class A office space anywhere in Huntersville currently.

Mr. Richards said we do. There is just under 290,000 sq. ft. of Class A office space in Huntersville. I spoke to the EDC this afternoon. It's almost all gone.

Commissioner Munger said could you clarify on what Class A is.

Mr. Richards said I would defer to Ryan and his team on that, but it's the higher end office space.

Commissioner Munger said if memory serves, we actually held the neighborhood meeting for this in the Dellwood Center, almost entirely based on the fact that we don't have any community/convention space.

Mr. Richards said that was correct. The applicant had a difficult time finding space to hold a moderate number of folks on a Thursday evening.

Commissioner Munger said this might be an applicant question. How much space is this particular facility going to provide of that sort.

Mr. Richards said I've asked that question and they don't have a firm answer as they don't know the exact dimensions of that building yet.

Commissioner Munger said are we actively considering extending Townley Road to Northcross Drive.

Mr. Richards said that's a project we've actively talked about time and time again, but is not on our CIP at this point in time.

Commissioner Munger said it should be. When we say there are plans to extend Northcross Drive to Westmoreland Road, when is that scheduled to occur.

Mr. Richards said now. Right-of-way acquisition is currently underway. It is my understanding the intention is to let the project in FY23.

Commissioner Munger said this one is probably going to get a little bit more tricky and Emily you might want to end up answering this. What authority, if any, would we have to enforce a certain level rating of hotel. If they basically said we are going to put a four-star in there and they couldn't find the right four-star and they said we are going to go with the one-star because you approved it and throw our hands up and say but we wanted a four-star. Can we stop it at that point.

Ms. Sloop said with conditional rezonings you can always ask the applicant for specific conditions to be included as part of the conditional rezoning, but they have to be willing to agree to it.

Commissioner Munger said this is probably going to get tricky, but is there an option available to the Town Board to allow us to review the finalized plans and provide any further final approval after the rezoning is approved or are we done once it is approved.

Ms. Sloop said for rezonings the Town Board approves the rezoning and then once it's approved, currently staff then makes the administrative approval of the individual development permits etc. As long as what is presented, as far as the plans match the conditional rezoning that you all approved, then staff would be issuing those permits. If you all wanted to make administrative determinations, you all would have to basically do a total overhaul of the Zoning and Subdivision Ordinance and change administrative approvals to the Town Board. That's not recommended by the UNC School of Government because of the fact that if they meet the requirements, you can't turn it down, so essentially you would just be adding processing time to all those permits.

Mayor Bales said the importance of labeling out everything in the conditional rezoning is what is required.

Ms. Sloop said yes, exactly. You would want to make sure that all of the notes on the conditional rezoning plan is what you all want. If there's a note that's on the plan that you don't understand, you would want to get clarity on that before approving it.

Commissioner Phillips said I know this touches Cornelius. Are you guys aware of anything Cornelius is doing within that area as far as development.

Mr. Richards said I reached out to the Cornelius staff and I haven't heard anything yet. They would anticipate some additional residential development along the new Northcross Drive Extension to Westmoreland, but they weren't aware of anything at this time.

Mayor Bales said Planning Board members, do you have any questions for staff at this time.

Mr. Gammon said not at this time.

Representatives for the applicant introduced themselves:

Tim Perry, 2008 West Cavendish Court, Johns Creek, Georgia.
Susan Irvin, Irvin Law Group, 19726 Zion Avenue, Cornelius.
Mike Lant, Suwanee, Georgia.

Tim Perry presented PowerPoint presentation and reviewed proposed project. *Refer to PowerPoint attached hereto as Exhibit No. 10.*

Commissioner Phillips requested more information on the last two slides of the presentation, since the presenter's 15-minute time limit expired before he could review them.

Ms. Irvin reviewed the last two slides on the IMPLAN program.

Commissioner Kovacs said I just wanted to understand and clarify, so this won't actually add more retail, it's adding the apartments, the office and the hotel and taking some of the retail away.

Mr. Perry said there'll be a small net loss to the retail, but we will be replacing the retail on the ground floor of at least the multi-family and the office building, so other than a lobby you're still going to have retail on the ground floor.

Commissioner Kovacs said what has caused the shift of moving out current stores. I ask that just because you stated that there were vacancies and trouble filling up the spaces, but then we've heard of stores being asked to leave, so if there was a problem with not being able to fill up the empty spaces, why are we having people move out.

Mr. Perry said I think you are looking at two different parts of the property. Pier One has sat there for a very long time. No one asked them to move out. Barnes and Noble had to be heavily incentivized to stay for another two years and not close in January. Then you had Total Wine, who needed to get bigger but didn't have the room to go either way because of Barnes and Noble on one side and Gap on the other, so that's why and for economic reasons I think they moved to Cornelius into the old Stein Mart. That's the evolution of power center tenants like that is to go and take cheaper space that depends less on us creating the destination and more on them.

Commissioner Kovacs said what about the other stores, like on the interior.

Mr. Perry said in the interior there are a lot of stores that are moving around.....some in order to combine spaces and then others are in the way more or less of some larger tenants. You look at how the sales are struggling and I know that we get a lot of comments from the community and unfortunately nostalgia doesn't pay rent. What you need is a retailer and the reason these mixed-use developments work and the reason that they are longer lasting is because having say I love going to that store, I go there with my friends three or four times a month, doesn't even pay for the cost of the labor. You have to have the same tenants that go there three or four times a week unless you are some sort of super regional luxury mall. If you look at our mixed-use developments, you will have a restaurant at one they'll say I see the same faces three or four times a week. Another says I see the same faces three or four times a month. You really need the traffic. It's really all about sales.

Commissioner Kovacs said so you are looking at the sales of all the interior and exterior to decide if they would be able to hold up to the cost of this.

Mr. Perry said we look at the sales of all of our tenants. If they are doing really strong and starting to trend downward, we work with the tenants. Some just don't make enough. They don't do enough in sales.

Commissioner Kovacs said I only ask because a resident who is also a shop owner had been speaking to me about that, and I don't think that was their situation, so I worry if that's happening to other ones. When you said that there were vacancies that you were trying to work on filling, I was confused about that. The two statements didn't go together. The convention space, will that be for the public to rent or is that only for the offices.

Mr. Perry said the convention space just for the offices wouldn't work. You would have to have the hospitality component in order to be able to book events for it. What actually drives the success of the hotel piece is the F&B and the operation of the convention center and likewise the convention center is available for whatever, event, business.

Commissioner Kovacs said you are going to be building that.....you guys will be responsible for paying to build that portion. It won't be public, like the public is paying for it is my question.

Mr. Perry said we designed it so that we could have those conversations in the future. What we have done a couple of times is enter into public/private partnerships for the conference center space. We are designing this so that there's the option, not that there's any sort of requirement or necessity or that we are obligating anybody to anything.

Commissioner Kovacs said I don't know if you were here for our pre-meeting, but that is worrisome only because I wouldn't want that to be touted as something that's going to be very beneficial for the town if the town were to be responsible for helping to fund that because we can't say yes you can build this and then come back later and say we have to fund this and then feel like we have to or else it goes to wasted space. Residents reached out. Someone asked if the notifications for the neighborhood meetings were sent out to all required residents in the area.

Mr. Perry said yes, they were.

Mr. Richards said I can speak to the list that was provided to us and it matched the Town's list as well, so I know the addresses were the same. I can't speak to delivery service from USPS or if the applicant put them in the mailbox, but I do know that the list that they provided was correct.

Ms. Irvin said I can speak to the process. We have a list that we prepare first and we give it to the Town staff. In every single case they review our list and a lot of times they have comments and additions and then we make changes to that list and send it back to the Town for approval and then that list is what creates all the addresses on our envelopes. We put the same notice in each envelope and the entire package is delivered and mailed at the same time.

Commissioner Kovacs said was the HOA contacted.

Ms. Irvin said the HOA's were notified. For the Greens HOA, we actually had three different addresses and you use the address in the tax records, but we for some reason, I think it's just because we had a separate tax parcel, but we sent four letters to three different addresses, so two of the letters went to one address. Two of those were returned. But two of them were not. Also, I think Tim mentioned that he has also been in discussions with the HOA over the last year.

Commissioner Kovacs said our water infrastructure can handle this addition of significant amount.

Mr. Richards said there's no water or sewer capacity issues.

Commissioner Kovacs said have you guys given any thought to purchasing the Regal land and using that for parking to avoid another taller garage.

Mr. Perry said we have contacted the owner of that in the past and they were not willing to sell for any sort of reasonable price and because that property is cross-collateralized in a loan pool, it's not able to be sold individually until such time as the loans are matured. Having said that, they don't use all their parking and so in order to stage our valet further away and use parking that people don't like to use, you know of all the parking comments, I'll tell you there's parking there, it's just far away, so we're using our valet to push those cars off near the Regal parking lot and further away and that way that leaves more spaces up closer for guests.

Commissioner Kovacs said do you guys have a brand of hotel in mind.

Mr. Perry said we don't have a brand in mind, but typically a lifestyle brand from either likely Marriott or Hilton.

Commissioner Kovacs said security was something that I saw that the residents were worried about, and it is things that we had been in contact about. You guys have increased security and that's appreciated, but with 350 more apartments and however many people that come from that, is there a plan to increase security or have upgrades to your security management with a significant increase of people there.

Mr. Perry said we don't really have many security issues with the residents on any of our properties. The security issue is heavy on the guests and it's heavy with juveniles as well. Unfortunately, byproduct of our success is that we are considered people's babysitters at the same time, so most of our security increase is having to do with juvenile issues and that's not Huntersville, it is every property in every city. As you add density and the security, parking decks that don't have cameras now have cameras. You have access control. And there's all sorts of the access into the office and the multi-family has license plate technology. Residents can get in and out, but you have a record of guests and everything that comes in, so there is a much higher level of security just by virtue of being more modern than 20 years old.

Commissioner Kovacs said there's a lot of glass. This is just a comment. Please give some thought to bird glass because there is so much glass. Garage 1 is available after 5:00 p.m. and on weekends and Deck 2 will be for some residential, but it is still public parking, correct?

Mr. Lant said the parking deck will be offered to multi-family. It is basically parking for the multi-family, but there will be some level of parking in that parking deck for the hotel, so there could be some crossover parking.

Commissioner Kovacs said so the only parking that will increase for people visiting Birkdale would be after 5 p.m. or on weekends.

Mr. Lant said on the deck that supports the office building, correct. We designed the office building second floor at 20' tall to accommodate the conference center. We understand there's a need in the area for a good conference center, so we are designing it for them. It is not our intention to build it, but we are going to spend the money to build it higher so it could accommodate it. Should it come along through a private/public partnership or something, we could accommodate it.

Commissioner Partee said I'm particularly interested in the Avalon down in Alpharetta. What was the relationship between that development and the community surrounding the Avalon, and were the same issues that are coming up now from our community addressed when you built the Avalon in Alpharetta.

Mr. Perry said the previous developer for Avalon had cleared the site and the city referred to it as the mud pit of shame. When we came along we did not have that much opposition to what was being put there. There's always discussion around adding residential because that required a zoning change at Avalon, but I think if you look since, and there was about half a billion dollar development, the office that was built as part of that development was 100 percent leased when it delivered. The residential is 98 percent leased. There are very few kids. The average household income of the resident is \$253,000.

The average age is 52 years old. These aren't your young professionals or renters by choice. And then the economic boom again located at a state route and in Georgia 400 which is essentially their state.....the access and the ability for that intersection to handle is where it should be versus spread around and from that what we call the halo effect. You've seen residential single-family home growth, townhomes, cottages, in downtown Alpharetta which has been completely renovated with a new town hall, so it really spurred with multi-family and apartments. When all of that was developed, I think it's important to note when we did phase one in Avalon there was a very high level of success. When we did Phase Two at Avalon, Phase One got better – the sales improved and when downtown Alpharetta developed theirs, the sales improved. This is not necessarily a net zero gain, this isn't changing pieces of the pie around the community, it's really growing the pie and not just at that property but in all the surrounding use. Residential developers, which we're not, will find a way. They find a way to bring more walkable and at Avalon a majority of our original buyers were residents from the multi-family that wanted to move. It's almost like a test run. I'm going to live here for a year or two and then I'm going to decide what to do. Generally, they decide to stay very close stay within that community.

Commissioner Partee said my second question is regarding social districting. As you are aware we just approved social districting for Birkdale. In Alpharetta and the Avalon do you have social districting. If you do, is there any control mechanisms that are set in place to keep the folks that are drinking, having a good time – is there any controls. Do you have any problems or issues with social districting in that particular development, the Avalon.

Mr. Perry said we have social districts at Avalon which was the very first one that was done in the state. They thought it was such a good idea that they took downtown and turned it into a social district as well and have replicated that throughout Atlanta because of the relaxed nature of the ability to walk around and enjoy yourself. I can't think of really any issues that we've had. That half a beer that you get to go isn't the difference between you being drunk or not, it's everything that has happened before that. Really it's just about being able to relax and enjoy the plaza. We have the same social district at other developments and we had the same kind of results. It doesn't inflate any of those issues.

Commissioner Munger said one of the earlier questions was about the convention space. If it were to be publicly funded, what privileges would we have over that particular space.

Mr. Perry said there would be a heavily negotiated agreement that would allow for what you need and what you want. I can only speak to the one that we have done in the past where the additional tax from the hotel market actually funded the conference center, so one way or another while it was a public/private partnership it was the taxes on the hospitality market that funded the interest on the bonds in order to create this because it helps everyone. It doesn't just help the Avalon hotel, it's filling up the courtyards and everything else around it. There was a big community benefit and that's how it passed through, so really other than the good fate and credit of the city it wasn't really paid for that way. And then at that point it was leased back to the hotel to operate, insure, deal with, maintain and not have any ongoing obligations that as municipalities typically like to avoid, the unknown commitments. That's how that deal is structured. There are privileges that the Convention and Visitors Bureau has and the city has uses this that and the other. It kind of varies but the Convention & Visitors Bureau heavily uses it.

Commissioner Munger said one option we would have I believe in North Carolina or for Huntersville would be specifically the tourism tax would be something that would probably be along those lines. I apologize if you have covered some of these questions already and I may have missed it currently, the Total Wine location, do we know what's going to happen there.

Mr. Perry said no.

Commissioner Munger said it is what it is I guess. What kind of impact do you expect on current occupants during the construction phase.

Mr. Perry said on most of the current occupants the painful part of the construction down the middle of the boulevard is over. If we can get a GFC outlet somewhere in the country to turn the fountain on, it would be over. The sequencing of this is that Barnes and Noble would be demolished. That would be the staging area for the demo and construction of the parking deck behind it, Deck A. At such time Deck A was up and delivered that lay down and construction area would move into the parking that currently is there to support Barnes and Noble, so it's parking obviously that Barnes isn't using. It can now be used as a staging area in order to be able to build the office building. The other sequencing schedule, what isn't necessarily obvious, if you look at even the Phase One, we could have moved forward with that in December of last year, instead we waited until January to do it purely because of holiday season shopping. This year will be the same way. Even though this may be a couple of years out, we don't want to impact anybody's experience and when you show up on November 19 for ice skating and tree lighting, we want you to have a good time.

Commissioner Munger said when you tear down Barnes and Nobles and say that parking will be staged in front of that, you made reference to that being parking for Barnes and Noble. I do also believe that Chipotle and a number of shops along the back use that parking as well. Are they aware of the plans.

Mr. Perry said this would not impact the entire area, just a portion there on the northwest corner.

Commissioner Munger said you put down I heard at least four to five month construction time on each garage. Are there two total garages and did I get that number right?

Mr. Perry said there are two. They would be not done at the same time.

Commissioner Munger said for the four to five months and four to five months on the other that's let's say nine months. Nine months you are going to have some parking issues. What are you going to be doing to address that specific parking because right now whether we agree or disagree, you have parking issues and you are going to be eliminating a garage, a number of spaces, so what are we doing in the interim to address the parking issues during that time.

Mr. Perry said during that time we would enhance valet, we would push cars into the parking in front of Barnes and Noble that's not currently used for a stage area. It's about 75 spaces that are retail focus on the ground floor of that parking deck. My second statement is there's a little bit more dire, we have to tear it down and rebuild it. Regardless of what happens here, from a safety standpoint we're within 24 months of having to tear it down and rebuild it, so the four to five months is not a total timeframe – design, drawings, a year building it offsite before it comes onsite and it's essentially erected which is why we can get it done so fast. Those have some pretty material issues going on.

Mr. Lant said Barnes and Noble currently has about 80 spaces. By code they require about 80-85 spaces. When they leave, those 85 spaces become available. There's 75 spaces in the bottom of the deck, which is public, so when we open that back up, so Barnes and Noble goes away, the 75 spaces go away, and there's parking there in the surface lot.

Commissioner Munger said so theoretically a net plus 10ish.

Mr. Lant said yes, that's the plan because we are going to build the parking deck first before we start staging in the parking lot.

Commissioner Munger said I see you have some hotel brands in mind for the particular location. What made you consider those particular hotels for this project.

Mr. Perry said by the level of service and the level of guest requirements. This isn't transient. This isn't hey I'm stopping through Town, I'm spending the night here. This is intended to fulfill the I don't have to drive into town to stay here and still have a great experience. I would say that limited service and select service is by far the primary source of hotel rooms in the market. This is not that. This is room service and F&B.

Commissioner Munger said are you currently having active discussions with any of those entities.

Mr. Perry said yes, absolutely.

Commissioner Munger said would you consider pursuing higher end hotels, higher than you are already discussing with.

Mr. Perry said to go higher end you'd have to go with a lot more rooms so you take something like Avalon, we have about 45,000 sq. ft. of meeting space, you have 325 rooms. When you are not using that meeting space to drive revenue it has to be driven by the office market and in that market you have 16.5 million sq. ft. of Class A office, so you have that many executives in business and work travel and everything else.

Commissioner Boone said Parking Deck A, that's open to the public, right.

Mr. Perry said Parking Deck A would satisfy the office and then in non-working hours would be open to the public free of charge.

Commissioner Boone said let's look at the other one. That one has 350 multi-family let's call it apartments. Let's say we've got 350 people with cars. They would have a car to get to their apartment. And then we've got a hotel with 125 guests and they need a car to get there, so if I put the 350 and 125, I'm at 475. I'm not even counting the staff that's got to park someplace, let's say there's 50, that parking deck is full.

Mr. Perry said the multi-family building parks itself and does not take up any of those 401 spaces.

Commissioner Boone said say that again.

Mr. Lant said that would be predominantly multi-family. We would have to park the hotel there as well. Right now, if we can't get it to park properly, then it's just going to reduce the number of multi-family spaces we would be able to build. Right now, we think we can get 350 units here and with the surface parking out front. We think those numbers might work.

Mr. Perry said going back to the 400 spaces that are available when the office use is there, it's like all the surface parking, depending on the hours of day people cross park.

Commissioner Boone said but again Parking Deck A you have your office workers there from 8 a.m. to 5 p.m. and you have somebody coming in on holidays to pick up a couple of gifts. They want to shop around 11 a.m. and where are they going to park, because B is full. Okay, 11 a.m. in the morning where is somebody going to shop at Birkdale going to park.

Mr. Lant said there's still parking along the boulevard. And there's also parking on all the surface lots. We have more parking than is required by code and we have a lot of parking on the surface lots. It's inconvenient parking, agreed.

Commissioner Boone said how many valet parking spaces do you have to valet park.

Mr. Perry said I actually don't have a count because we keep increasing the number that we are taking from Regal and the lot that they don't use.

Commissioner Boone said so you are parking picking up one end of the boulevard and parking at the other. Dresslers, where do they take their valet parking, do you know.

Mr. Perry said I wish they wouldn't park on the streets in The Greens neighborhood because that's what I get to talk about every month and we've continued to speak with them about that. As part of renegotiating....not renegotiating, extending that lease and concept we have an opportunity to try to provide that valet parking like we do with Red Rocks and so that keeps even the Red Rocks valet when they run it from using those surface lots and let's us use the ones that are furthest away. And technology is what allows us to do that. You don't show up with a ticket anymore and wait for your car. You pick request car while you are getting your check at the restaurant or whatever, that way it's there when you get there.

Commissioner Boone said I'm just going to speak for myself. I have a very difficult time parking at your retail spaces and I probably take my truck and park in front of your houses and that probably makes you mad, but I'm parked. I think you have some real concerns and some studies here to address when it comes to traffic and parking.

Frank Gammon, Planning Board, said I have a request and a question, because I don't think they can answer this question tonight, but they could bring it to the Planning Board. When Mayor Pro Tem Phillips and the Town Manager were discussing taxes, I'd like to see if this is possible, what tax benefit is Huntersville getting from Birkdale currently. What are the number of employees at Birkdale and if possible, the annual payroll that comes out of there. But then I would like to know how is this going to change, because our tax benefit, our number of employees and the annual pay rate coming out of there. I understand that some of that would be pure I don't want to say conjecture but if you have a four star hotel, the size hotel they were going to build, what's the annual pay revenue another one of those hotels somewhere else and how would they come.

Mayor Bales said I would like to ask a quick question of staff. In regards to Commissioner Boone's questions around parking requirements, does staff have any concerns about this 401 parking spaces and being able to meet the needs of multi-family and a hotel.

Mr. Richards said they meet the code minimums and they'll have by numbers straight they'll have an additional 30 extra spaces. Operationally, that's up to them how they are going to operate that, but numberwise, they're at 30 additional spaces and it was required to meet our minimums.

Mr. Perry said we're happy to provide some of that math. There are spaces that are no longer being used for Dick's or Pier One that are here that are factored into that. We can also look at usage by hour during the day and I would say 11 a.m. if you're coming to shop.

Mayor Bales said I'm sure that data would be helpful.

Mr. Richards said to point out, too, they are asking for a maximum 350 multi-family units. If they were to say build 300 and still do the 401, there would be net gain there for parking as well. It depends how many they ultimately build.

Mayor Bales said I'm sure there's a formula to it.

Mr. Richards said for every one-bedroom unit, there's one parking space. For anything that's more than one-bedroom, it's 1-1/2 spaces. If they build all one-bedrooms or how they do their product mix will affect those numbers as well.

Mayor Bales said if you wouldn't mind bringing that information back to the Board and share that with them along with the Planning Board, I think that would be helpful.

Commissioner Munger said just throwing out a number \$240,000 in property tax revenue per \$100 million of increased value. We don't know the exact number of total value that would be increased, but if it were \$100 million it would be \$240,000 property tax per year. My other questions about financing, giving our rapidly changing financial landscape do you have any concerns regarding financing this project.

Mr. Perry said in this case, time is on our side. Given the environment we chose to extend Barnes and Noble for a couple of years in their space. That pushed it to January 2027 at which time we would be able to commence that. During those two years hopefully I think the capital market has quietened down a little bit. And then Dick's is at a 5-year extension so that's kind of the timeframe there. As far as the hotel that's actually the most near term and viable use. Financing is available. We are in the market now to finance another \$130 million hotel. This one would be more like 70/80. The leisure market has provided a better bet than the office market. That is a valid concern.

Commissioner Munger said one of the issues that came up some of the on street parking has been eliminated and it's been an issue has been especially hard on people of handicap and my understanding is you do provide free valet for handicap. Can you confirm that or is that something I just misheard.

Mr. Perry said yes, we do.

Audra Collins, 8904 Sutherland Drive, said if we are not going to talk about nostalgia, I am going to talk about what I do know. This is Huntersville. That is Birkdale Village. This is not Charlotte. This is not uptown. I know if I want to go to Birkdale, I'm not looking to see an office building. I'm not looking to see a hotel and it sounds like if there's going to be negotiation, the convention center is not even open to the public. There's going to have to be negotiation for it to be open to the public. I don't go there for office buildings. If I wanted to go to an office building, I would spend 20 minutes driving and go to uptown. I don't think it's fair and then also considering that for four to five months we would have to park around. That's all I wanted to say. This is Huntersville, not Charlotte. I want it to stay in Huntersville as it has been for the 23 years that I have lived here.

Brian Rice, 17232 Bridgeton Lane, said I wanted to talk a little bit about what we've seen today, and these are concepts. These are developers. I think in the pre-meeting we heard that developers kind of want to tell you what you think you want to here. I can't predict the future any more than anyone else, so I'm just going to stick with facts. I was in that first meeting at Pier One, which is now Girl Supply when we first talked about all the things that were going to change in Birkdale Village. We talked about small changes – there were going to be more stores, there was going to be less space, so there's less green space, not more. There's less parking, not more. In fact even in that meeting I remember when we talked about parking, it was dismissed that oh, we don't have a parking issue. For those that know that address, I actually live about 200 yards from Birkdale Village in the Greens. That's a fact. That's what I know. They told us it wasn't a problem. We did get something. Maybe we don't get lights with this big building that we are going to get, but we did get noise. Now we have that great big television and all the noise that comes with it. What I'd say is that we have a parking issue. We have a traffic issue already. I saw that 73 is going to be built, but we all know how long that sometimes takes, so I would certainly like to see that happen before we do further development. They told us that it'll be one-bedroom, one and a half bedroom, but that's what they'll say. When push comes to shove, if it's a two or three bedroom apartment, guess who's going to live there – families. What's that going to mean to schools. J. V. Washam is the fifth biggest elementary school in North Carolina. You already heard how overcrowded we are. Let's hear from CMS to see what they are going to do to make sure that we actually have room for our kids so that they can grow up. The third thing I wanted to say is safety. This is the biggest concern. Yes, there has been increased security and we do appreciate that. But it's not been enough. And frankly with what we have in Huntersville right now, the 911 which is what the police, who do a fantastic job, tell us to do is call 911 whenever there is an issue. But the dispatch isn't in Huntersville, it's in Charlotte. So many times we call, we don't even get a response, but that's what we are told to do. I think it was mentioned that there are lots of juveniles that are coming in and causing problems, causing vandalism. In fact, I even looked at Lexis Nexis community crime. It's actually on the website. You can take a look at it. You can look at the crime statistics. I've been looking. It's gone up.

Jon Boggiano, 17318 Inglewood Lane, said I helped facilitate a community meeting in The Greens and had about 80 residents. We did a community survey with about 160, so rather than bombard you with a line of speakers, I'm just going to summarize some of the results. In general, there's a wide diversity of opinions. Most people were supportive of continued investment in the village, so it's not entirely a no, it's there's a lot of details that matter. Curb cuts for deliveries, like if you are building apartments and a hotel, where are people checking in going to go, Amazon deliveries, FedEx deliveries, what about moving in and moving out. Right now, those roads are not wide and they are already backing up. The traffic management is the biggest thing. Traffic was hands down the biggest. We talked to the developers and they said it's a town issue and so really like the Townley Road Extension, giving us another exit out that doesn't go to Sam Furr would be wonderful. We asked the developer if they would contribute to that. We've asked for a redesign of Formby Road which is on the other side of Birkdale. It's a really narrow alley right now. You can't get two cars going down that. There's parking there. Can we widen that or take that out. What happens is people go into our neighborhood and we get a ton of traffic in the neighborhood, so parking was the single biggest issue. In general people were supportive of the office and the hotel, but 350 units of apartments feels like an awful lot to fit into that space. And then the other concern was what's the area plan for this. Across the street is 260 hotel units approved and there's no pedestrian access really across Sam Furr and it doesn't look like the state put any pedestrian access across Sam Furr in the redesign so we're like two disconnected communities and then what happens to the Regal property in the future. There's a lot of questions about what's the 10-year vision of Birkdale. If this project gets approved what else does it allow. Do they come back for approval

on the other side of the property and so in general it wasn't a no and it wasn't a yes, it was there's a lot of details that matter and we ask the Town Board to slow down and really study this issue so we can get this right because we don't want to get this wrong because it will kill our property values, it will kill the Birkdale Village because if they sell the property 5 years we are the ones that are stuck with the traffic nightmare that no one wants to come visit.

Kim Zarsadias, 17303 Inglewood Lane, said Jon said everything perfectly. I think traffic is definitely the biggest concern. Also, aesthetics, some of the slides that I saw I just think it's completely ugly. It doesn't go with our homes. We are looking very disconnected with Birkdale Golf Course, we've got two different things going on over there. We have neo-traditional in Birkdale Village with a touch of mid-century modern, now we are going to add all these tall glass office buildings. I don't know, it doesn't look good. I've lived in the Birkdale Village before Birkdale Village was there. I'm an original homeowner. I've owned two homes there. My mother-in-law owns a home there. I've raised my children there. I'm a real estate agent. In the last couple of months I've sold two ¾ of a million dollar houses. We don't want our property values affected by this. I'm all for the development and I think most people in our neighborhood are, but it needs to be done right. The one issue that somebody that couldn't be here brought up and I also experienced it last weekend is the valet parking is going up Townley Road. There's fast traffic going up that road and there's a couple of curves where you can't see with the parking there. The other day I literally was like I've got to make turn, I'd just better hold my breath and hope that no one hits me. I think the valet parking is a concern.

Karen Poppen, 17018 Carlton Way Road, said three brief concerns. One is traffic. I live in the Village. It's almost impossible to get out of the Village at certain times of the day and Sam Furr is backed up tremendously, but increasing the traffic with office workers and hotel guests and apartment residents, it's already impossible to get in and out of Birkdale and I can't imagine what adding all those additional cars will do. You've heard tonight that parking is not an issue. That's just for people who don't live there. If you live in Birkdale you know that parking is a big issue and I would like to see them maybe even, I hate to say this, but increase the size of the parking deck so there are more spaces for general purpose public parking. My last concern is that the size and style of the hotel, the office building and the apartment complex do not fit the current style or size of Birkdale. It's completely like something from outer space was dropped in there and I would like to see some restrictions put on it so that the height and style of those buildings match what's already there.

Joseph Segarra, 9919 Cockerham Lane, said I live in Birkdale where the golf course is. I'm on the Architectural Review Committee of the HOA. I've been on there for at least 10 years. My family and my grandchildren all live in Huntersville. We all have single-family homes. That's what we came here for and that's what we would like to continue to see. We don't want to head towards big city. I came from New York City, so I'm not interested in seeing high-rise buildings such as they are proposing. I think it should be fitting to the ambience that most people here in Huntersville and Cornelius want which is single-family homes for the most part. Maybe multi-family homes, but I don't think you want to head in the direction of a 10 or 12 story, 145' building. Aside from that my friends in the community have all encountered the same congestion problems and we really didn't like to see Pier One leave. We don't want to see Total Wine leave. If anything, we participated to really support all the stores that were there, because those were our local community stores that we can be serviced by, but we enjoy being there in our community. I'm really sad that the Cork and Screw is leaving, Total Wine is leaving. Do I really need to drive up to Cornelius to go to Total Wine. Cork and Screw has been there for years since the beginning. I'm just surprised. Pier One, I used to like to buy all those Christmas ornaments. My wife likes to go to Loft and to Talbot's and stuff like that. I think we have to really take a look at the direction of where we want to go as a community and you as our representatives, we depend upon you to really

have that view. What does the common person want. Are we really looking to commercialize the area or not.

Dawn Snow, 8132 Evanston Falls Road, said I'm a long-time resident and homeowner in Birkdale Village and like many people in the neighborhood I bought there for the small-town feel. I support reasonable development and growth, however the scope of this project is overkill and it's just way too much. First of all, the proposed 12-story hotel and 7-story office building does not fit with the character of our village or our community at large. It is too intrusive to the neighboring communities and will affect the privacy of our neighborhood and property values. Our neighborhood was designed as a neo-traditional mixed-use development and the current zoning was put in place to protect our community from tall multi-story buildings that do not fit with the character of our neighborhood or town. Secondly, we are already surrounded by apartments everywhere we turn. We do not need 350 more apartments in this area and higher apartment density brings more traffic and often times more crime. Additionally, we do not have the infrastructure in place to support the increased level of traffic a project like this will bring. It is already difficult to get out of our neighborhood and is getting worse every day. If this project is approved, it will soon look like Exit 36 in Mooresville. Besides forever changing the character of our village and creating traffic gridlock a project of this scope will result in increased noise, loss of retail, increased crime and long-term construction. In short, it will negatively affect our quality of life and could decrease our property values. Please do what is best for our community and town, please deny this rezoning request and allow development in Birkdale Village that maintains the character of our village. I would also like to make you aware that the Town staff, the Planning staff has not enforced the Town ordinance for conditional rezoning which requires an applicant to hold a community meeting at a venue in close proximity to the project site and to give proper notice to the affected HOA's as defined in the Town ordinance. I have never heard of any mention of this project in the monthly meetings from the developer. The property managers of our HOAs have confirmed that they did not receive any such notices from the applicant. This deprives neighbors and property owners who are most impacted of the opportunity to ask questions. I verified that the addresses match the tax records. Don't you think it is important to enforce this part of the ordinance prior to voting on this rezoning request and what can you do to enforce this. I also have a hand-out that have the emails that verify that no notices were received from the HOAs along with the addresses they were sent to. *Refer to Exhibit No. 11.*

Paul Allen, 17604 Invermere Avenue, said I think it seems to be too large a project for this area. I know we've got to think about saving the shopping center, but then the quality of life for the people who live here commuting back and forth to work and things like that. Somebody mentioned the aesthetics. If we go by the way the shopping center looks like now, I don't know understand monochrome paint scheme. It used to look a lot different, so we are getting a big change here that hopefully I'm sure you will consider whether that's worth it or not.

Nick O'Shaughnessy, 8217 Parkton Gate Drive, said I'll take you back nostalgically to the 90's, because I was a land planner and a rezoning consultant, and I did a lot of plans in the 1990's. I worked with Ann Hammond who was Mr. Simoneau's predecessor. We formed a new urbanism group for Mecklenburg County including all the towns in the north. We got together weekends, the town planners of Davidson, Huntersville, Cornelius and including the guys in Charlotte. The new urbanism was the buzz word of the day and the Town of Huntersville embraced Andres Duany's concept and they redesigned their ordinance to a neotraditional ordinance using a fellow British person, David Walters, who was a UNCC professor and he rewrote the ordinance for neotraditional, pedestrian friendly, pretty looking, whatever you want to call them, to me it was a French boulevard with beautiful human scale buildings of a texture and a scale and ambience that made me feel comfortable. I didn't feel out of place. I came from a big city in England. I didn't want that again. I've lived in Charlotte, didn't want that. Huntersville and the

little towns around here decided they didn't want to be suburbs and that's why we rewrote the ordinance and the first example of that ordinance was Birkdale Village. It was a flagship for DPZ and Andres Duany. He did a project in Florida which is a slightly different physical location, but this was his flagship. These guys I don't think understand that flagship. They don't understand scale, texture, ambience, and a general feeling of comfortable town, village, village within a town. This is Huntersville, like the previous person said. It's not Charlotte. It's not Alpharetta. It's not Atlanta. God help us if it was. The Town's parking requirements, as minimal as they are, and with all due respect to the guys behind me, they don't work in the real world. Two spaces per 1,000....really, five spaces per 1,000 for retail and 3.5 office.

Kerry Edelstein, 8810 Camberly Road, said I want to first plus one to a lot of things that have been said especially about aesthetics and the lack of continuity in the design here as well as the traffic and the lack of expansion of Townley and some of the roads going in and out that stand to be way more crowded with a 12-story complex. I am a homeowner in The Greens and I love that you talked about this idea of town and the town center because the first time I drove into Birkdale and I had moved here from Los Angeles which was like a developer hellscape and I moved here really to escape that and I came into Birkdale and I just felt like this breath of fresh air like a troubadour was going to go by and serenade me. It was this charm. And I think one of the things that we need to understand is that charm, that sense of community, it isn't a limitation of Birkdale. It's where it derives its value, it's what drives the value, what keeps our property values escalating. While the village was closed during a pandemic, my property value went up 50 percent in 2020. That's a lot, even while we were closed, and so it's in that context that this property just doesn't make sense to me. I want to start with what to me is the most confounding piece of this proposal which is office space. I myself am a businessowner and I've got some pretty big clients like Google and Verizon, so I deal with both small and large business and I'm also a business owner in the data space, so I love data points and here's a fun one that I read in a report last week. Seventy-three percent of office employees now expect to work either entirely or partly at home moving forward. We've got a project that's basing itself on this idea that we want Class A office space, but I have to tell you has a businessowner that's not something I'm looking for. I have people who I'm trying to recruit who want to work from home. They don't want to go into an office anymore and this to me feels like a proposal for 2019, not a proposal for 2026. And furthermore, the kind of large company that could absorb the cost of office space even if employees don't fully utilize it why would they not want to be in Center City where there's more access to public transportation, where they can recruit from south Charlotte which has a much bigger potential employee base than up north in Mooresville. It doesn't make sense to me and so every time this plan gets discussed I find myself asking the simple question of why. Why are we even considering this. What's in it for us. Why are we assuming it might even be successful. To me it seems like it's just here to destroy the beauty and the charm of Birkdale. It's going to saddle us potentially with an office park that turns into a ghost town given the way the economy is going, cripple us with traffic congestion and as you saw in some of the reports that you provided to us and thank you for that overcrowd all of our schools. It strikes me as the same bad decision that was made building toll lanes on 77 or overdeveloping Cornelius, which didn't turn out well in the end and I don't want to see that for Huntersville as well. What I keep coming back to is that Birkdale is conceived to be a village. It's not Avalon. We don't want it to be Avalon. We are not a distressed community, we are a beautiful community and we want to keep it that.

Mayor Bales said I've got a question. It's one that goes back years and it just kind of struck me. We had on our CIP at one point Townley connecting to Northcross and it was a bridge. I know several years ago we did remove that because we were like for what....it seemed like it was a connection to nowhere and now we've got Northcross extending into Cornelius.

Mr. Richards said that was originally discussed when Birkdale was first developed. Mr. Coxe, the previous Transportation Planner, was trying to negotiate a three-legged approach between the developers then I believe Pizzagalli who became Rubbermaid, the Town and Birkdale at that time and like you said that never came to fruition and that was on the CIP off and on during the years. It's currently off. Staff would love to explore putting that back on the CIP. Hopefully we can work with North American and the now owners of the Rubbermaid complex to see if we can work out a public/private partnership. If not, we can always explore CRTPO money. There's a lot of different avenues we could look for funding.

Mayor Bales said I think a couple of folks up here remember that project.

Commissioner Phillips said I'm going to put the applicant on the hot seat and I'm very sorry to do this. There's a lot of concerns up here, questions, a lot of concerns and questions out there, would you all entertain doing another public meeting by chance.

Mr. Perry said we've done three, what's one more, including this one. Actually, John and I spoke before the meeting that he hosted there at the Greens in the clubhouse and went through some things that they had questions for before that meeting and even tonight suggested that we would be happy to do so. I think that's a great process that's in place at the Town to get public comment before you actually have to vote and that way we can incorporate all this and address traffic.

There being no further questions or comments, Mayor Bales closed the public hearing.

Petition #TA22-07. Mayor Bales called to order public hearing on Petition #TA22-07, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to comply with Senate Bill 105 regarding the restriction of harmony requirements when multi-family structures are an allowable use and the development contains affordable housing units for families or individuals with incomes below 80 percent of the area median income.

Kayleigh Mielenz, Planner I, entered the Staff Report into the record and reviewed request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 12.*

Commissioner Kidwell said if it's a 500-unit complex, how many affordable housing units would they need to provide.

Emily Sloop, Town Attorney, said they do not provide a specific number in the statute. It says units, which has been determined to mean at least two because it's plural, but they do not set a specific number using a sliding scale or formula.

Commissioner Kidwell said just so I'm clear, the State again has sent something to us that they didn't fully think through, that somebody could just say I'm going to throw two affordable units in a multi-hundred unit complex and tell Planning staff for the aesthetics of our Town go pound sand, we're going to do what we want. I just want to make sure the State did their due diligence of not looking forward again.

Mayor Bales said they also slid it into an appropriations bill, so it just makes it even better. It is on our potential goals, because this is a big one.

Commissioner Kidwell said I hope Senator Marcus and Representative Bradford are out there watching and listening right now.

Commissioner Kovacs said we took units to mean two. Could we make it more than two.

Ms. Sloop said since it says units and does not include in the statute a specific number, in consulting with the School of Government they said it was safest to say two or more.

Commissioner Kovacs said what would happen if we said 15.

Ms. Sloop said I would think that we would perhaps be overstepping.

Commissioner Kovacs said what about a percentage of units.

Ms. Sloop said it does not allow for a percentage of units. Unfortunately, until there is some clarification from the legislators, we are kind of stuck. Again, this is new. There is no case law associated with it at this time. It may be that down the road there is case law and therefore the language is further defined by case law.

Commissioner Kovacs said is there a plan of who will be monitoring it.

Ms. Sloop said we would have to include something specifically on their approved plan, likely a note. While we wouldn't actively be out and about going to see what they are doing, if something was reported to Code Enforcement along the lines of the units are not being offered, then we would go through our normal code enforcement mechanisms in order to enforce that note.

Commissioner Kovacs said could we be proactive and have something where we have an ongoing spreadsheet that says this was approved this day, where it was built, so every year staff checks it.

Ms. Sloop said they could likely create some sort of internal mechanism for routinely checking it. That's likely something that could be developed through an internal policy. It wouldn't necessarily be part of the ordinance language, but it could be something that Planning maybe created a spreadsheet or something along those lines of the dates that it was approved and that they could go back and check.

Commissioner Kovacs said this was pushed down to us without any clear definition or definitive numbers or anything. Is there something that would happen if we do not push this through until we have those.

Ms. Sloop said it would be in effect regardless because the statute is already in effect. I had recommended at the Huntersville Ordinances Advisory Board meeting that rather than having nothing in the ordinance to be a starting point and having parameters, it would be better to proactively put language in our ordinance so that if a developer came forward with the statute in hand, we would have a starting point as to how to interpret it.

Commissioner Boone said does the EDC have a different median income figure that could be used.

Ms. Sloop said we have to use the figure that we had in the slideshow. That's for our particular region.

Commissioner Kidwell said just to be clear, I'm not concerned about families below the 80 percent. My concern is the aesthetics to the town. Having lived up north in Jersey and in New York where you just see rows and rows of brick buildings, having lived in some of those brick buildings, I can see that coming this way where we just heard a presentation from Birkdale. They could easily say we're going to build a brick thing here, it doesn't have to look like it blends into Birkdale, and we are going to offer two units. That's my concern, it's not the affordable housing aspect, it is the aesthetics into which will blend into the town.

Ms. Mielenz said that is our concern as well and also that the language is ambiguous which could lead room for somebody to take advantage of it. As far as monitoring the units, I think that is something we can look at if there are any ways where we can keep a list or track it.

Commissioner Phillips said before this goes to Planning Board, could we maybe not use the North State at Sam Furr Road as an example because of it going to Board of Adjustment. I don't want it to come off like we're unintendedly influencing something.

Mayor Bales said absolutely.

Commissioner Munger said I'm going to go out on a limb and suggest that we tempt fate and put out some specific numbers. I know that there is no case law about it. Case law will occur. If they can build a 500-unit building and make two of them affordable housing, which again as Commissioner Kidwell has clearly stated, it's not about we are against affordable housing. If it's 500, I want like 50 affordable housing, not two. Two is ridiculous. I say tempt it.

Ms. Sloop said I would not suggest that.

There being no further questions or comments, Mayor Bales closed the public hearing.

OTHER BUSINESS

Electrical Materials Purchase. There are several bulk feeder projects currently in progress that require the purchase of materials to complete. Southeastern Consulting Engineers, Inc. (SEC) solicited formal bids for these materials on July 28, 2022 and received only two bids. SEC solicited again for bids and received two bids on September 8, 2022. SEC has made a recommendation based on the outcome of the bids in relation to cost and delivery time.

Commissioner Kidwell made a motion to approve Southeastern Consulting Engineers, Inc. recommendation to purchase materials indicated on their recommendation letter dated September 9, 2022.

Commissioner Kovacs seconded motion.

Motion carried unanimously.

SEC Recommendation Letter attached hereto as Exhibit No. 13.

Abernathy Park Master Plan. After receiving direction from the Town Board at their September 19 Meeting to keep the baseball field, Parks & Recreation staff revisited the site, as well as talked to the leaders of local baseball/softball organizations. The goal was to find a way that we could still move the

playground and basketball court away from Glendale Drive as well as to provide a field for the current users. We were able to accomplish this by moving the fence in to 175' as well as moving the homeplate back 10'. This field layout would still be able to accommodate the younger age groups that currently use the field for practices. This layout will also allow a new walking trail, shelter and fitness stations. Local youth groups support this change and said it would not impact their current teams that practice at Abernathy Park.

Commissioner Partee made a motion to approve the Abernathy Park Master Plan with a new baseball field layout, that will allow new walking trail, shelter and fitness stations.

Commissioner Boone seconded motion.

Motion carried unanimously.

Abernathy Park Master Plan attached hereto as Exhibit No. 14.

FY23 Goals. Commissioner Boone made a motion to approve the FY23 Goals for Town Manager Anthony Roberts.

Commissioner Munger seconded motion.

Motion carried unanimously.

FY23 Goals attached hereto as Exhibit No. 15.

Town Attorney Merit Increase. Commissioner Boone made a motion to ratify the Town Board's action taken in Closed Session allowed under the North Carolina Open Meetings Law to award a 3.5 percent merit increase for the Town Attorney based on market analysis and performance evaluation.

Commissioner Munger seconded motion.

Motion carried 4 to 2, with Commissioners Kidwell and Kovacs opposed.

MAYOR AND COMMISSIONER REPORTS/CLOSING COMMENTS

Commissioner Munger

- Attended the four-town dinner last Thursday.
- Next meeting of the Huntersville Ordinances Advisory Board is this Thursday.
- Consider supporting local non-profits.

Commissioner Partee

- October 1 through 31 is Breast Cancer Awareness Month.
- National Night Out is tomorrow night.
- Advocate for gun safety.
- Bring awareness to Cool Kids Clubhouse.

Commissioner Kidwell

- Charlotte Regional Transportation Planning Organization met last month and funding for the Gilead Road project was discussed.

Commissioner Kovacs

- Provided update from the Lake Norman Chamber of Commerce.
- Provided update from Huntersville Connection.

Commissioner Boone

- October 2 through 8 is Public Power Week. Expressed appreciation to ElectriCities and power companies in our area for keeping the power on.

Commissioner Phillips

- No Report.

Mayor Bales

- Rhonda Cheek, School Board Representative for District 1, will be present to provide update at next Town Board meeting.
- Lake Norman Economic Development Corporation is currently working on 39 projects.
- Metropolitan Transit Commission met last Wednesday and received updates on the CATS agency safety plan and negotiations with the bus drivers.
- The Legislative Policy Committee of the North Carolina League of Municipalities will have a Legislative Goals Listening session tomorrow and another one on October 11.
- September 15 through October 15 is Hispanic Heritage Month.

There being no further business, the meeting was adjourned.

Approved this the 21st day of November.