

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**November 19, 2024
6:00 p.m. – Huntersville Town Hall
101 Huntersville-Concord Road**

PRE-MEETING

None

**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 November 19, 2024.

GOVERNING BODY MEMBERS PRESENT: Mayor Christy Clark; Commissioners Alisia Bergsman, Amanda Dumas, Jennifer Hunt, Edwin Quarles, LaToya Rivers and Nick Walsh.

Mayor Clark called for a moment of silence.

Mayor Clark led the Pledge of Allegiance.

ANNOUNCEMENTS

Provided Gilead Road Closure update so NCDOT can complete work on the diverging diamond interchange.

Provided update on traffic delays on Statesville Road for Charlotte Water to make emergency repair of sewer service in the area.

Town offices will be closed November 28 and 29, 2024 in observance of Thanksgiving.

Ways to connect with us – website, social media pages, Town of Huntersville app and newsletter.

PUBLIC COMMENTS

Environmental Sustainability Committee. Trisha Knight presented update on the Environmental Sustainability Committee. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

It was the general consensus of the Board to direct staff to research recommendations from the Environmental Sustainability Committee.

Small Business Saturday Proclamation. Mayor Clark proclaimed November 30, 2024, as Small Business Saturday in Huntersville.

A PROCLAMATION FOR SMALL BUSINESS SATURDAY

WHEREAS, the Town of Huntersville, North Carolina celebrates our local small businesses and the contributions they make to our local economy and community; and

WHEREAS, according to the United States Small Business Administration, there are 34.7 million small businesses in the United States, small businesses represent 99.7% of firms with paid employees, small businesses are responsible for 61.1% of net new jobs created since 1995, and small businesses employ 45.9% of the employees in the private sector in the United States; and

WHEREAS, 68 cents of every dollar spent at a small business in the U.S. stays in the local community and every dollar spent at small businesses creates an additional 48 cents in local business activity as a result of employees and local businesses purchasing local goods and services; and

WHEREAS, 59% of U.S. consumers aware of Small Business Saturday shopped or ate at a small, independently owned retailer or restaurant on Small Business Saturday 2023; and

WHEREAS, the Town of Huntersville supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

WHEREAS, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW, THEREFORE, I, Christy Clark, Mayor of Huntersville, do hereby proclaim November 30 as “**SMALL BUSINESS SATURDAY**” in Huntersville, North Carolina.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 19th day of November, 2024.

Joe Sailers said this is in reference to Overhill. Originally Overhill was being developed and this board approved two entrances on Mt. Holly-Huntersville Road and no construction traffic, no tie-ins to Pembroke, Westminster, Shields, or Wedgewood. Because the contractor went bankrupt and Nate Bowman sold the property to another developer, we are seeing construction traffic on Shields, Westminster, and Pembroke. I'm requesting that you notify the contractor so that ceases and they do not use the neighborhood as the entrance to the subdivision.

The other thing is we have heard rumors that the two roads on Mt. Holly-Huntersville Road will not be built. If that be the case, that's going to throw all of that traffic on Overhill, down Pembroke, into Westminster Park and out to Beatties Ford Road, which now they can't get on Beatties Ford Road because of the back-ups already. It's going to burden our neighborhood with additional traffic that we were promised would not happen.

Thirdly, I've heard a rumor that Town staff with your traffic people and engineering people have suggested that Overhill be closed at McCoy. That is the entrance or the exit for this particular development. We were promised that they would use Overhill to go to Beatties Ford Road and McCoy and into Huntersville. If you close off Overhill, that will again force all of that traffic back down Pembroke and into Westminster Park, which we were promised when the development was approved would not happen.

Lee Hallman said tonight I want to talk about R24-09, the public hearing that was held on 11/4. I'm a little frustrated by the staff's bias toward the petitioner in both the Staff Report and the answers to the questions asked by the Board. Also, in the dismissive attitude toward both the Zoning Ordinances and the residents that will be greatly impacted by this action.

We know we often hear I trust staff, but let's trust and verify. We pledge the truth, the whole truth, and nothing but the truth. Of course, the difference between the truth and the whole truth calls out omission of facts in order to deceive or untruths of omission and then nothing but the truth calls out outright lies. Both the latter are equally egregious.

The omissions of facts in this petition are when Commissioner Dumas asked the question, what are the differences between the current NR zone and the proposed TC zone, the response was made by reading down the list of by-right permitted uses in TC and right before the actual uses that are additive and maybe are troublesome, the staff jumps to the list of similar building types in both zones. He specifically leaves out nightclubs, music clubs, bars, and similar entertainment facilities. Why was that?

Further omission occurs in the Staff Report because you'll notice how everything cited on our Community Plan and Downtown Master Plan supports this action. Does that suggest 100 percent compliance? No, he just left those out. Most rezonings include at least some staff comments where the rezoning does not support those plans so that you can make a full and thorough decision. We can and will provide those for you and staff.

There are too many against aspects of this plans to speak of at this time I'm allotted, but as the Vice Chair of the Downtown Steering Committee, I'll highlight that a general upzoning was never the intent of that year-long \$125,000 consultant-led project. We talked about how TC would expand down Gilead Road organically, property by property, overtime, until it reached I-77.

Dismissive quip of calling our Zoning Ordinances barriers also infuriates me. Our Zoning Ordinances are our standards that we worked on to refine for 50 years. This is an insult to the town and shows a strong developer bias. Hopefully this was just a quip, but we'd like to see a more balanced perspective from our Planning staff.

Another burn on residents was the comment the future got here before some expected. First, no. In fact, the future never gets here. I remind staff that planning exists to plan for the future. Upzoning this block to general Town Center zoning says that we're done trying to implement our plans and you can build anything on the list by right and we'll see you at the groundbreaking ceremony, or if you're 117 Gilead Road and already have a habitable structure with a Coming Soon sign that reads Pints and Pages Coffee Bar, you can go ahead and get your alcohol license and start serving pints of coffee to your guests at a picnic table only 30' from a residential bedroom window until two in the morning. That's the genesis of all this. I know because I was in the room where it happened. Deny R24-09 and let's see those long existing plans by way of conditional zoning, please.

Amy Hallman (Tammy Eppley and Dan Boone deferred their time) said I want to apologize for the angryish tone in the previous meeting's public hearing. I came to you with facts. But after listening to the Staff Report, though I am a strong woman, my heart rate was at 154 just sitting in that chair. No, I don't have a medical issue, but there was so much I'll say lacking in the Staff Report that it overtook me. The way the Staff presentation was packaged during the public hearing set off all kinds of alarms. I hope you heard them.

So while two weeks ago I brought you history, tonight I'll be speaking on the room where it happened. I will not leave out by omission. You get the details, the whole truth. Tonight I bring you the residents report. I will email you a copy of the nine-page report of all the points from the 2040 Plan and the Downtown Master Plan that do not support this general rezoning.

If it is not clear already, I am against general rezoning. Each property owner should come to you individually with plans and with all the players involved to ensure that we as a town get the best product for Huntersville. Tell them you don't want to turn the away development, you simply want to know what the development is first.

According to the 2023 Downtown Master Plan, it is intended to evolve with flexibility relative to existing conditions. Page 2. The word existing is centric here.....not potential, not speculation, organic growth and development. Consider calibrating tree preservation requirements, mitigation strategies, or provide incentives to developers for contributing to a downtown tree fund to the Town for planting and maintenance of trees elsewhere in the downtown area, Page 5.

Some points you didn't hear two weeks ago, the tree save in Town Center is zero. The tree save in NR is 10 percent. No buffer yards are required in TC so there's not giant buffers you were promised. The buffer in NR is 20' for a redevelopment. A redevelopment, not a reimagination.

On Page 68, LU-11 Protect Existing Housing Stock.....11.1, with a general rezoning there are zero protections. On Page 70, EV-2 Encourage Existing Economic Assets and Entrepreneurial Business Developments.....EV 2.1, 2.2 and 2.3, these properties can already operate under NR. On Page 61 of the 2040 Plan the first sentence under implementation of the plan is our communities do not change overnight. For instance, properties should not preemptively upzone based on Future Land Use Map until other areas have filled in or the proper infrastructure, roads, parks, schools, utilities, emergency services, etc. is in place.

I had believed that any of the rezonings that were going to happen would happen conditionally because conditional rezoning is what we do in Huntersville. Conditional rezoning would be in good faith, it would be a good steward of the community and the neighbors around them. Conditional rezonings have conditions, concessions for existing neighbors.

Have you asked yourself where this idea of general rezoning came from. Did you assume all the applicants somehow got together and had an idea? That's not what happened. And I know because I was in the room where it happened. In 2023 one neighbor told us he wanted to put in a biergarten. He had already been to the Planning staff. He believed it was a go from what he told us.

In a June 28, 2023, meeting with us, the property owner, his designer, Jack Simoneau and Brian Richards, the two Planning staff said that his project was too big for NR. So, if a biergarten and a restaurant are too big for NR, why are we comfortable with this general and no plan rezoning. Doesn't this count as a plan? Simoneau said staff had seen the plan. Where is it?

I was surprised by the non-contiguous and raggedly knitted together properties asking for a general zoning, but when you asked if any of the applicants were in attendance, you were told no. But the applicants from 106 Gilead were in this room. Mr. Richards said that NR zoning would be a barrier to development during the Staff Report, despite having two residential properties in the middle of these 108 and 119, neither for this rezoning. Foregoing existing zoning to remove barriers would seem as part of the high intensity development plan that was the least popular when designing the Downtown Master Plan, Page 3.

Economic development recommendations. Recognize and plan for a phased approach to potential future development based on the realities of existing land ownership and associated parcels geometry and street frontage, Page 6.

Facilitate potential joint development approaches with multiple developers and landowners, Page 6. Are we doing this? We don't know. We don't know if developers and plans are not present.

Encourage incremental, small scale infill development congruent with existing land ownership and parcel size and geometries, Page 6. If the zoning is changed to a TC general rezoning, this will not happen...106, 115 and 117 can and quite possibly will be torn down and replaced with what, we don't know.

A general rezoning at this point will increase the market value for those properties. The only mention of the Downtown Master Plan two weeks ago from staff was Gathering. He said the parcels were too small for big development of the parking restrictions, but he didn't mention that the staff is looking into removing the downtown parking restrictions, which had been talked about at the Downtown Steering Committee and in our June 23 meeting.

Encourage implementation of shared parking or joint access agreements, Page 6. Throughout the Downtown Master Plan, it talks about this.

In our June 23 meeting Richards said the nationwide parking restrictions in downtown municipalities in general has gone away. They rely on shared parking, parking decks, etc. We also know that our Planning staff is working on eliminating parking restrictions. Why not mention that? How does he know that Gathering works when none of these properties has submitted a plan? He has admitted that Henson's not giving you any plan. He has no intent of changing anything at 121, so he doesn't need a change, and the other three properties are vacant and have been for 2 to 20 years. No renovation has taken place at any of these properties with these owners.

By the way, there are five more downtown organizing principles: mobility, nature, living, civic and soul. And for soul it says build to scale, at a rhythm and according to pattern that respects historical precedent. Historical and cultural were the two things that were missing from the Staff Report last time where it said that the other things wouldn't be bothered, but historical was left out. And I explained to you what the historical stuff was.

Under soul, development in the primary Gathering area and balanced with selective, and context sensitive redevelopment while enhancing and celebrating existing neighborhoods, civic and historic downtown buildings, open spaces and activities. Putting a by-right biergarten in the middle of these, 30' from someone's residence bedrooms is not sensitive. If North State wants to come in and buy 115 and 117 to complete the square of their project, I am not theoretically opposed to that. But be upfront about it.

When staff said the future got here faster than some folks thought, this is not the future. He called these petitioners pioneers. The staff refers to 117 as operating as a business, and it has been vacant for 2-1/2 years. He has also described 115 as in disrepair. He says this general rezoning will invite some potential projects that would've never come before. All of them are vacant except 121. One was inherited about 20 years ago. One was bought in 2022, paid \$495,000 in cash, and another was bought as part of a \$6 million real estate deal in a single week in June of 2022.

These are not mom and pop developers, as you were told. This isn't some long time Huntersville resident trying to turn their property into business. You know that a developer has had a conversation with two of these properties as evidenced in my report and a separate resident's email two weeks ago.

This isn't mom and pop. I could go on and on. But when Bergsman asked about the music and you were told by staff that there was no difference about having music in either place, you were not told that Neighborhood Residential does not allow any kind of outdoor sale of goods or activity in NR. You weren't told that. And it's true that you can't be outside in NR. So again, I will give you the rest of it later. I appreciate your time.

AGENDA CHANGES

Commissioner Dumas made a motion to adopt the agenda. Commissioner Walsh seconded the motion. Motion carried unanimously.

CONSENT AGENDA

Budget Amendment – Parks & Recreation. Commissioner Rivers made a motion to approve budget amendment appropriating \$19,000 from the Park Capital Reserve Fund to The Park – Huntersville Greenway Project. Commissioner Bergsman seconded the motion. Motion carried unanimously.

Call for Public Hearing – Historic Landmark Designation. Commissioner Rivers made a motion to call a public hearing for Tuesday, December 3, 2024, at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road, Huntersville, NC 28078 for a historic landmark designation for the “Caldwell-Bradford School” site located at 16401 Davidson-Concord Road. Commissioner Bergsman seconded the motion. Motion carried unanimously.

PUBLIC HEARINGS

Petition #R24-12 Walden Berm Revision. Mayor Clark called to order public hearing on Petition #R24-12 Walden Berm Revision, a request by TF Walden LP to rezone +/-21.509 acres located at 15140 Fred Brown Road from Neighborhood Residential Conditional District to Neighborhood Residential Conditional District.

Brian Richards, Planning Director, entered the Staff Report into the record.

Tonight we have a rezoning amendment for Walden subdivision. This is R24-12. They're looking to go from Neighborhood Residential Conditional District to Neighborhood Residential Conditional District for modifications to berm specifications.

Back in 2007 was the original conception of Walden by Toll Brothers. That included a 20' residential buffer, which is standard in our ordinance, on the western area that we're discussing tonight. In 2014 there was an amendment to that from the Bowman Development Group to add some additional parcels. Again, still keeping the 20' buffer on the western side. In 2018, the TF Walden Group purchased this from Bowman Development and as part of those discussions and consideration of the neighbors, that was the introduction of a 30' buffer with a 4' tall berm. After that was approved in 2018, it moved on to construction plans which are our preliminary plans. That was done in up to nine phases. That was over the course of 2019 to 2022.

Here is an aerial view of where the berms are located on the northwest portion of the development. What the developer is asking for tonight is a modification request to allow for variable slopes. The standard ordinance allows for 3:1 slopes on either side of the berm and an 8' crown across the top. If we do the math simply which was an oversight by staff and developers in the past, that works out to about

32'. You can't put 32' inside of 30', so they are asking for some modifications to the pitch of those berms to make it fit inside that 30', which is greater than the ordinance standard. They would plant that berm to meet the ordinance standards as well.

You can see some existing pictures here. These were taken Friday. They've replaced much of the dead vegetation that was installed earlier this year. Again, you can see the fresh vegetation that was recently planted.

We do recommend approval of this due to consistency with Land Use Policy 11.1. We do ask for some conditions of that, that they do update the plans which would be included in RTAP, that the modification request is approved by Board, the applicant's already asked for that. We would suggest that additional evergreen trees be added to the berm to help with opacity and that a drainage swell is installed and maintained by the developer. It's already installed today, but make sure that's all clear on their HOA documents that that it is the HOA's responsibility to maintain to receive the offsite storm water from the neighboring properties.

Commissioner Bergsman said is there also going to be a presentation from the applicant?

Mr. Richards said they do not have a presentation. This is a very simple one-page amendment to revise those plans, so they chose not to have a presentation, but they are here to answer questions for you.

Commissioner Bergsman said I'll just start with the one for you. I was under the impression in the past couple of months that there was supposed to be a survey that the developer was going to give to staff since March of 2024. Have we received a survey or what is going on with that?

Mr. Richards said we did receive the as-built survey in August. There was a grading plan that was mislabeled as as-built. That's been communicated to the residents and the Board in previous emails over the last several months. So that was not an as-built survey that was handed out in June. The as-built survey was not done until August of this year. We do have that. That has been shared with the adjoining residents. As-builts are typically not done at this phase of development. They're done at the back end to make sure everything's in compliance and we've reviewed those plans, but the developer did agree to do that mid-development cycle to ensure these things, that's when we discovered that the slopes were not correct and could not be put in place. They've asked for this modification based on that survey.

Commissioner Bergsman said could you send a copy of that survey to the Board?

Mr. Richards said you should have that, and I will make sure you guys have that either tonight or first thing in the morning.

Commissioner Dumas said just to make sure I understand, so the berms that were previously approved by the Town Board at that time, we have since learned it is not possible and so this is our.....it's an administrative thing to correct.

Mr. Richards said not administrative, however we're going through the legislative process so we're fully transparent as to what we're doing.

Commissioner Dumas said we made a mistake, we're correcting it.

Mr. Richards said correct.

Commissioner Dumas said have we learned from this? How do we avoid this in the future?

Mr. Richards said moving forward if there are negotiations at the dais for things, we would ask for a pause of two weeks so we can go ahead and make sure everything fits, and then continue on from there.

Craig Campbell said I am with the TF Walden group and here to answer any questions.

Commissioner Bergsman said I was onsite with our Town Manager this morning and I did notice that there are additional plantings especially compared to a couple months ago, so I do appreciate that you've taken that step. There are aspects that still seem like they're in progress. Would you say that what it is today is what it would remain or are you still working on some of the slope, the landscaping, things like that?

Mr. Campbell said there's still some minor adjustments to be made. Our landscaping crew was out there last week and this week and even as of today still kind of doing some touch-up items. I'm not sure the extent that you're asking, but there's still some clean-up items happening. I do believe the plantings are per the approved landscape plan. We're cleaning up some of the erosion and whatnot. That's what's been happening in the last couple days.

Commissioner Bergsman said they do feel that it is currently to the ordinance. Would you consider going above and beyond since this is.....if we're being asked to make a sacrifice in terms of the slope, would you be willing to plant, especially the arborvitae, and add some more in there along to make it more opaque?

Mr. Campbell said I would consider that with staff's.....and as Mr. Richards just explained, I don't want to say we'll do something tonight and not have a chance to meet with our landscaper and work through these things to make sure that we can accommodate that. I'm willing to have those discussions and consider that.

Commissioner Bergsman said are you working with an arborist on that landscaping or is that something that you're discussing with staff in looking at what can and can't be done. Is there willingness to include an arborist?

Mr. Campbell said I believe our landscape contractor has an arborist on staff.

Commissioner Bergsman said how much time do you think you would need to discuss and work with staff to get to come back to the Board?

Mr. Richards said we'll work with the development team and make sure we have an answer prior to the December 3 meeting. We have Planning Board tomorrow night. Obviously, nothing's going to happen in 24 hours, so we'll get something to you shortly.

Commissioner Bergsman said one of the other things that I've noticed is that there does seem to be some erosion issues still. Are you aware of that?

Mr. Campbell said yes, we've had the contractors out there repairing and continuing to monitor that. As this is newly built and we're trying to get some of the vegetation, not necessarily the taller vegetation,

but more the grass is established, we have to kind of continue early on with this type of a construction. Early in the phases you have to repair erosion more frequently than in later time as things have kind of grounded and rooted themselves in the soils and the plant materials work together.

Commissioner Bergsman said can you talk through a little bit of what your process typically looks like in factoring and mitigating that during the construction until you get to that post-construction phase when everything is complete in regards to erosion?

Mr. Campbell said we have to follow the Town and State erosion control measures. There's an actual permit that we have to abide by.

Commissioner Bergsman said do you do regular checks though?

Mr. Campbell said yes, we have a third party that comes out twice a month, it might be more frequent than that, to do erosion control checks and then they provide us a report and we quickly get out and correct those items.

Commissioner Bergsman said would you be able to send us a copy of that report?

Mr. Campbell said I believe so, yes.

Commissioner Bergsman said Thanksgiving reading material perhaps. And then one thing I also noticed today is in that one section of the berm there is, and thanks to Anthony for identifying for me, what's called Johnson grasses, which is an invasive grass and it's close to the neighboring property which is a farm. Are you planning on kind of mitigating that to make sure that invasive species doesn't pop over into the neighboring properties?

Mr. Campbell said yes, as part of our maintenance of the whole area we look out for those types of things. I'm glad you're bringing that to our attention. I'll make sure we focus on that a little more aggressively.

Commissioner Bergsman said I know there's at least one section. There may be more. And that was on the side that's kind of perpendicular to Ramah Church Road. When you mitigate that, is that just spraying or is it that's going to be physically removing, because I do know that is a species that's kind of hard to get rid of.

Mr. Campbell said I would leave it to the experts. I'm not a weed mitigator, so we would leave that up to our contractors in what they deem to be the most appropriate manner.

Commissioner Bergsman said do you think it could be removed by our December 3 meeting?

Mr. Campbell said I can attempt to achieve that. Depends on the weather and their schedule.

Commissioner Bergsman said I would appreciate that. And then just my last question is in relation to on the stub street there is that sewer, I don't know if manhole is the right word, that's sitting pretty high up. I am just curious and maybe this is actually a staff question and not your question, but the way that it's sitting seems it's right in the middle of the stub street almost. I'm kind of confused why that was built the way that it was.

Mr. Campbell said if I misspeak, I'll ask my engineer to come up. But that's designed per the Town design and the engineering plans that were submitted. As that road gets built going forward, storm and sanitary stubs are in the road. Manholes sit in the road as that road is to pop through. The elevation grade, we have to capture grade going up to get to that property line, and so it looks odd today, but at future build out that's built to be the appropriate location and height.

Commissioner Bergsman said so you feel it is the correct height. How tall would you say that was? It was sitting a couple feet up.

Anthony Roberts, Town Manager, said it's probably 2' or 3' up, just a guess.

Commissioner Bergsman said you're saying it's meant to be that way?

Mr. Campbell said yes.

Mr. Richards said just one other point of clarification I failed to mention earlier. In the original construction plans, the buffer was identified as an undisturbed buffer. Obviously, if you're going to install a berm and plantings, you have to disturb that, so we'll make sure that's cleared up as well on the ensuing construction documents.

Mayor Clark called for public comments.

Joe Sailors said Marilyn's property is here, actually all in here where this is because of the way they had to put two things on the same map. This buffer was cut down approximately 12' and then added back. This buffer was cut within 6" of Marilyn's fence and it drops straight down 27' to the lots that you see graded here. Had they not cut the 30' buffer that was supposed to be undisturbed, as he said originally, they wouldn't be in this predicament. Staff allowed the developer to cut the berm to within 6" of Marilyn's property. It was supposed to be 30' of undisturbed. They did away with it. Naturally they cannot put a 4' berm or 30' buffer and a 4' berm on top of that because it wasn't there. Staff made them come back and put back dirt. The only problem is at the widest point along that buffer is 26' wide at the same elevation as Marilyn's property is to where the same elevation was before they took the dirt away. Now they're stuck with putting a 4' berm on top of a 26' wide buffer, that can't happen. And now they're coming back with the recommendation of doing a 2:1 instead of a 3:1 slope on that berm. In their own words 3 years ago they said that they had to have a 3:1 ratio in order for the berm to work, but now they're coming back to you with a revision in this plan that says we're going to do a 2:1 ratio instead of a 3:1 ratio, which is totally different from what they said 3 years ago when we were here. Now the other thing that they said a little bit earlier in the presentation is that the as-built plans have been given to the owners. They have asked for the as-built plans and have not received them.

Josh Berbrick said all I can say to this is the whole thing has been clouded. This is 5 years of a waste of our time over nothing. We were with the Town planner twice in his office about this opaque berm that he was going to build. That berm and that buffer that you're showing there, I know a few of you have been up there, it is not slanted. You couldn't run up that hill. That's not like that. Two weeks ago when we went to whatever the town meeting that the planner Walden was holding, the Town Planner was sitting there and remained silent. I'm still clouded by this because when this started the Town Planner was talking like he worked for Walden. Now, all of a sudden, the guy from Walden is talking at a Town Hall meeting like he works for the Town and he's running a meeting that's involving our property, not his property. We're supposed to be the taxpayers here, but all we simply wanted was a berm. We have a farm, we have animals, we have a fence that is electrocuted from solar energy. We do not want children

who will see our horses and our farm, just like Marilyn's, and they'll come into it. This is what we got. We got cookies and tea at the Town Planner's office, oh we'll take care of it and his vast knowledge of what opaque means. Well, I know what opaque means and that's never going to be opaque because when I measured today, those trees were 32' apart. I don't think you can grow a tree 32' wide. Not only do we not want someone coming into our property, but we don't want light coming from those properties and we don't want children to be able to come onto our property. They also where Marilyn's property.....there was no arborist involved. If the arborist was there, he was running a giant backhoe that took every tree that either we or the Ainslie's did not own and took it off that property. They brought all the property down, moved all the dirt away, and that's where the problem is because now they've brought new dirt in and they've built it up. That berm is never going to last. It's been there 6 months and the erosion is severe and in back of Marilyn's property it's probably 10' already that it's eroded and it's straight up and down and it's supposed to be on a 3:1 slant. A 2:1 slant I would even....it's not even close. You couldn't climb up that berm. I couldn't, a child couldn't because it's so loose. So her problems that she's going to have with the erosion are going to lead to her water on her property and that's the same thing that's going to happen to our property. But I just want to be clear that the town is not Walden and they're not building an orphanage, they're building houses for sale so they can make money. I don't know how it turned into the town being on their side instead of the taxpayer's side.

Toni Berbrick said I first want to commend you for having Commissioner Bergsman help us with this issue that you inherited. And I hope you take this as a really clear warning in black and white that this town needs to address poor governance. Brian Richards who sits here and seemingly a Cub Scout dad, engineer with good ethics, as well as other people in the Planning Department, as well as the developer and his folks....we're talking about a billion dollar company, we're not talking about Bob the Builder from Huntersville. I'm not going to take up your time and go through a list of all the issues because we've been lied to. I have it in writing that it was to be an opaque landscaping. At the community meeting when I asked if they admitted that they talked about opaque landscaping, they in fact did. They said yes, we did say opaque landscaping and then they snickered and said it will grow opaque. And then I thank you, sir, for coming from Florida because the only two times anything has gotten done on that berm is when you come to visit. And we laughed the one time when you were supposed to show up and didn't come because they moved earth moving machines, building up the berm, trying to make it look wonderful. I've spent 30 years investigating fraud and not just this project, you heard a woman speak earlier about a different project. The Town Planning Board comes up and talks about these minor issues. This is just a minor adjustment. This is asking for forgiveness after a mistake. This is not asking for permission. You might as well put a billboard out on 485 and 77 that says builders come this way. You can do whatever you want because the Planning Department is going to help you do it and then they're going to stand up and say it's okay. The Planning Department under no conditions should be standing up here talking and presenting. Their job is compliance. It's either in compliance or not. If it's not in compliance, the answer's no. They shouldn't be recommending something that's a 2:1 buffer that at the minutes when this was approved, his boss Jack Simoneau went in detail, and I ask you to go to those minutes, went in detail as to why 3:1 was the absolute minimum. I have a ditch that they created, a 6" ditch that when he said it was a minor adjustment that they're asking for 2", that minor adjustment notice that it also includes a 6" ditch. There is no 30' berm. The berm isn't 30' wide right now. You heard him say there was a survey. I'm not sure if you heard him say it was an aerial survey. Well, an aerial survey is a lot different than a survey when the Town Manager tells me there were stakes out there,. You don't throw stakes from an airplane. We asked for a survey. As-built drawings should require a land survey and there is no reason why the Board should be accepting anything other than that. I ask you to take off the rose-colored glasses and take a good look and listen to what the community's saying to you, project after project.

Greg Ainslie (Marilyn Ainslie deferred her time) said I have some highlights. My wife has some written notes that she can provide you if you would like them, that you can look at. We feel very put upon and very disturbed that the edges of our property have been severely degraded by the poor development done.

I am a retired Air Force officer, and I know a little bit about topography and I know a little bit about how to read a map. And rather than build on the land that was presented and set there, they have gone to great lengths to cut down that land to put very steep banks on the edges of our property there, and it just can't meet any of the requirements that you've put in about the buffer and the slopes and anything that are there. It does not and cannot possibly come close to what your Town planners and the developers have said that they would try to do. It is physically impossible for them to come back and correct it without moving a great deal more dirt around and putting it in there. Had they developed on the land that was there to start with, we wouldn't be here today because they took great efforts to move land, move soil out, and then bring back more soil and try to compact it into something that will hold up a house.

If you look to the east of where Ferrelltown Parkway should come someday, they've put in fill dirt that I would suggest may or may not hold a house at some point in the future. And personally, I would never buy any of that property. And I fear for those people who may be buying property there, that they will not be getting sustainable property that can hold a house that can be lived in and survive through whatever comes from the weather in the future.

Marilyn Ainslie said I'll just add quickly there's supposed to be a 6" ditch at the base of the berm on our side that will carry off the run-off from our property. There are state statutes saying a developer cannot bring the drainage on adjoining property. We're getting too much water standing in some areas. If it was a drainage ditch that they had put in there earlier, it is all filled in with red dirt and weeds that are taller than me. That will have to be fixed or we'll have serious problems.

We've always since we've lived there been able to drive around the property line with any size vehicle and not get mired down with mud and water. And after some of these rains since that ditch has gone away, I would not drive my car out there. I wouldn't drive my golf cart on some days. And when the ditch is put in, it needs to be level with our property, not above it, and it needs to all stay on Walden's property.

Our fence is 6" to 12" within our property line, so things need to be measured from our property line, not from our fence, otherwise it will be encroaching on our property and we just need the drainage fixed. I want the people that farm that for us to be able to get their equipment in and out without leaving huge ruts in our field because people don't like to farm fields that are uneven. We did not get any plantings on our side of the berm. The drawings we were shown showed getting plantings on our side to berm, but everything's either on the top or the other side. Grass was not planted on our side.

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

OTHER BUSINESS

Petition #R24-03. Petition #R24-03 Long Creek Retail is a request by Saleh Moflehi of TA&S Enterprises of NC Inc. to rezone +/- 4.39 acres located at the intersection of Mt. Holly-Huntersville Road and

Beatties Ford Road from Highway Commercial - Conditional District to Highway Commercial - Conditional District for a convenience store and retail/commercial use development.

Jesse James, Principal Planner, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 2.*

An update since the public hearing and Planning Board meeting,. We had concerns at the public hearing and the Planning Board meeting about the phasing of the project, meaning you've got two parts to this project. You've got the convenience store, gas station canopy, and one retail building on the parcel to the right on the screen. And then the parcel on the left would be another retail building. We have just found out that the home on that second parcel on the left will remain until Phase 2 is complete. That is a new update for us.

The applicants have agreed to put the public street in on that left side parcel, which was a condition we had asked for at the previous meeting and the Planning Board did as well.

They've also agreed to the buffer conditions. We had concerns over some of the slopes on some of the buffers. A reminder buffers are required to remain vegetated and not to exceed a 3:1 slope. The previous plan was pretty close to being steeper than that. The modification ask was to grade into those buffers. They have agreed to not exceed the 3:1 buffer on the rear side and to the northwest side property as well.

One concern we had at the previous meetings was a driveway connection from the public road to Phase 1. Because of the existing home that is proposed to remain until Phase 2, that driveway connection will not be able to be done in Phase 1 according to the applicant. With that being said, staff would at minimum like to see a pedestrian connection in the way of a 10' side path along the entirety of the frontage of the plan that is required per ordinance. Originally, Phase 2 was the time when that extension of that side path was to be put in. We'd like that to be in Phase 1.

A little bit briefly about TIA improvements. With the condition of the phasing and the applicant agreeing to put the public street in, the TIA is still in review from NCDOT, however, they did approve the previous rendition of this. Some of the improvements that the applicant has agreed to per NCDOT comments is a right-turn lane access from Beatties Ford Road and a median, which would be right-in/right-out access, a leftover turn lane into Beatties Ford Road access into the driveway, which would go away when Phase 2 is proposed. We believe that right-turn lane would then go to the public street access and then the right-turn lane into the development from Mt. Holly-Huntersville Road would be a right-in/right-out access with a turn lane and a median to prevent full access.

Just a reminder on the 2040 Plan and a couple of the updates, a couple of the Community Plan items that this plan does meet, 6.1 which is support of mix of land uses in key locations and commercial uses encouraged in the Beatties Ford Road/Mt. Holly-Huntersville Small Area Plan. One item that still remains that the Community Plan does not support with this proposal is the prioritization of tree canopy. The applicant is proposing to save one specimen tree. I believe there's approximately 29 existing, but due to the amount of grading they are doing they would like to mitigate with the tree bank fund. The lady here today spoke on some of those mitigation areas and some of the things to look forward in the future. But again, they will be proposing to save one tree along that rear buffer.

In the Planning Board meeting, which was deferred to the September 24 meeting, the Planning Board voted unanimously 7-0 with the conditions that public street be included in Phase 1, which the applicant

has agreed to do, add the stub connection to the adjacent property for future connectivity. The applicant has actually proposed to make that entire side on the northwest buffer a right-of-way, that way if any properties did redevelop in the future, they would have access to that right-of-way to build a connection to that street, so in that way, condition two has been met as well. And then redesign the buffers to stabilize the slopes and ensure healthy plant growth. The applicants have agreed to that and not exceed 3:1.

Moving on to staff recommendation. Staff can support and does support the proposed rezoning with the six conditions on the screen – that they do follow through with the inclusion of the public street in Phase 1 of the development; any TIA improvements approved by NCDOT are constructed at Phase 1 of the plan and the left-over turn lane onto Beatties Ford Road is removed upon completion of Phase 2, making the driveway on Beatties Ford Road a right-in/right-out only access; the inclusion of the entirety of that side path along the frontage to be built in Phase 1 to at least have a pedestrian connectivity; the 30' rear buffer with grading does not exceed 3:1 slope to ensure healthy plant growth and stabilization and all minimum planting standards are met; ensure that the northwest buffer adjacent to the single-family home does accommodate what is in the plans as a 15' evergreen screen or buffer within that new right-of-way. Again, that is a modification request because the buffer next to the single-family home is 30'. They have offered a right-of-way with street trees and a 15' additional evergreen screen. And that any other minor staff comments through the reviews are met. We are still reviewing that plan and sometimes you have some little adjustments here or there.

Commissioner Quarles said on the screen here, you did say that on the single-family side there's a request to reduce the buffer from 30' to 15'.

Mr. James said correct.

Commissioner Quarles said can you confirm that the Town's minimum tree preservation is being met within this plan?

Mr. James said the minimum tree preservation for Highway Commercial is 30 percent specimen tree and 100 percent heritage tree. There are no heritage trees on the site. They are saving less than 5 percent as opposed to the 30 percent requirement, so they are choosing to mitigate through the tree bank fund.

Commissioner Hunt said how many homes are being built in that area, like right behind where this development would be.

Mr. James said Oak Grove Hill has 154 units that are being built. The adjacent parcel to the rear was a senior living facility and that has not come in for construction plans. I'm not sure if those will proceed or not, so it's vacant at this point.

Commissioner Hunt said how close is that, do you know?

Mr. James said the Mosaic senior living is directly adjacent. I don't know how far that property goes until you get to Oak Grove Hill.

Commissioner Bergsman said has the applicant expressed any willingness to go above and beyond our ordinances in terms of the tree mitigation?

Mr. James said we have not discussed that. By ordinance they're allowed to use the tree bank fund and they've shown on the plans that they will meet that minimum tree bank fund mitigation. That's something that you may be able to ask the applicants.

Commissioner Dumas said I was going to wait on this, but since we're talking about trees, so there's 29 trees currently. We're planning on saving one and contributing to the tree bank fund. I personally am not a fan of the tree bank fund. I don't like the idea of cutting down this many trees. It's not the same, planting a small tree versus cutting down all these large trees. That's what we learned and heard earlier. Did we look at creative options for the plans? Maybe this is a question for the applicant. I can wait until that point, but I would love to hear is there any other alternatives to be able to keep some trees?

Mr. James said that's something that we've tried to work with through the first couple of rounds of the plans and then at the Planning Board meeting, is there a way to save more of those trees. I believe the applicant, and they can speak more to this, in order to make the property work with grading, they've asked to grade into those buffers which would be areas where you could keep trees. So that's something they've engineered and found that they could not do.

Commissioner Rivers said you stated previously that we just recently found out that there was someone occupying a residence on the property. Was there not anything done previously or prior to this project was even created or thought of to ensure that the residence were around or near or in, you know, I guess I'm just trying to understand how did we not know that there was someone occupying the residence here.

Mr. James said when we get a conditional plan that occupies, in this case two parcels, we assume that those parcels will be built on. So there was never a question from staff that is this house going to be occupied. We found that out about a week and a half ago. So that's where the whole debate on whether they could build the driveway connection existed or not. They can speak more to that with their agreements with the two property owners.

Mr. James said those left-turn lanes should change with their revising of the TIA because of the public street going into Phase 1. The applicant may know more about this. I believe they have some of their traffic engineering staff here as well. They can maybe speak to how that left-turn lane will look with the inclusion of that public street.

Whitney Hodges, representing the applicant, said it's been a long process. I've been in this for about two years with the applicants.

This was originally approved as a drug store with an additional building and in that original approval there was a certain amount of grading, so that gets to trying to save as many trees as possible. With the change we're doing, and I'm not going to say the best that we can, but we're doing what we can given all of the other things that also need to be in place that are other regulations from the town. So it's oftentimes, especially with a smaller site, hard to get all of that into what you would need on the site, which is why we are grateful for a mitigation bank when we have those instances where there's a 30' difference from the top to the road to be able to safely get people into a small space.

This plan is already something that is Highway Commercial and we're trying to kind of be a part of a larger plan. And that's really challenging when there are multiple property owners. One of the reasons that the house became an issue was because the Houston's had decided not to develop at the same time we were, and that's when they said there's somebody living there.

We've been working through these challenges over the course of two years and a holistic approach over the course of the last year. I think that one of the things that the plan really does stand out is that we're trying to maintain some of that architectural integrity that is in the original Beatties Ford Road corridor area plan. The road improvements that we are putting in Phase 1 rather than in Phase 1 and Phase 2 are significant. That's kind of another thing that we're adding to this collective of a node that the Town would like to see. I think Patrick would like to speak to the TIA because it is actually approved. We do need an addendum for some of the things that we talked about with this different phasing.

Patrick Monroe said I'm the traffic engineer for the project, for the development team. We have submitted the traffic impact study to NCDOT as well as the Town of Huntersville and the City of Charlotte. The TIA was approved and it was approved based on the original phasing that was agreed to by all the parties I just mentioned, including ourselves as the development team. Based on the updated request and the updated commitment to provide that public road with Phase 1, the TIA will be amended with a one-page document that will be sent to NCDOT as well as the Town following this meeting and based on the conditions that we've outlined today. The scope of the improvements are not changing as what was previously outlined in the TIA, it's just a matter of the phasing catching up to capture the public road in Phase 1. The left-turn lane that you mentioned, that's actually going to be extended to the maximum amount possible to that right for the leftover. We're also adding a right-turn lane southbound on the approach.

Ms. Hodges said I do want to say that we do agree to connect the multi-use path all the way up to what I call the public road to the Cathy property, which is where Mosaic is. We'll do that in Phase 1.

Commissioner Bergsman said I think you heard my question earlier that I asked staff, but I'll repeat it again. I understand that the site has its challenges. In terms of contributing to the tree bank, are you willing to go above and beyond what's required?

Ms. Hodges said I think I can speak for the applicant, at this time I don't think with the road improvements that we're doing, we're kind of stretching to the limits our budget at the moment, but I can ask if you would like to consider that.

Jeff Mofelhi said as a Circle K franchisee in Mecklenburg County and surrounding counties. This site has too many challenges and it's already over budget. The way we're committing to road improvements, it is literally over budget by comparison to any other projects we've done in the market. We will do what is required, again with the challenges of grade difference, there's a 35' to 40' drop and grading that has to be done. We'll save every tree we can and what we cannot, we will mitigate it.

Mayor Clark said can you run through the rest of the presentation that you brought.

Ms. Hodges said these were just the commitments that we agreed to. I just wanted to make sure that we would go through those commitments and to add the commitment that we would build the sidewalk all the way to that public road. These are the commitments that DOT needed. I just wanted to make sure that those were in the record.

I had the elevations too, and I can go through the pretty pictures if you want to. This is the elevations of Circle K, they're in your packet. Some more elevations. Just pretty pictures of what we want to do. And then just kind of like an idea of what this might look like as far as architecturally. One of the things that we want to do is to have this kind of inset that you can come into, but we'd like to show pictures of what

Beatties Ford Road in that area looked like to kind of give a nod to this plan and to this region. These are examples of kind of the courtyards in between. I just had those in there. There's a couple more pictures, but that was just in case we needed them.

Mayor Clark said is it definitive that it will be a Circle K.

Ms. Hodges said yes.

Commissioner Dumas said you mentioned earlier that there's been a lot of challenges with this project. In the first presentation I felt like there were a lot of unanswered questions left. It was confusing. There were significant delays since then. We're now revisiting it and just a week ago we find out this part of the property isn't going to be developed at the same time. Is it possible that the timing isn't right? I personally am really on the fence on this project. I've gone back and forth a lot. I think it's a good location for what you're trying to do. I don't like the tree save as mentioned. I have so many on both sides, I'm really struggle with. Why now?

Ms. Hodges said for this area of Beatties Ford to develop, something's got to be the catalyst and so we're kind of putting it out there that this could be the catalyst. I'm not a market expert, but I believe that if you start some development down there with this project, that you will see those other parcels develop much quicker. We didn't have opposition from the public because a lot of those property owners understand that this is supposed to be a node. It's something that they want, but someone's got to start the development down there. This project and the project across the street have been approved since 2008/2009 and someone needs to start something and take that risk. In some sense, you're right about timing but someone has to be the one to start.

Commissioner Rivers said will this be a 24-hour operation?

Ms. Hodges said yes.

Commissioner Rivers said is there any way possible you can tell me about safety, because I know safety concerns have been an issue and they have come up. With this being a 24 hour operation, what does that entail.

Mr. Mofelhi said we take safety as a very important part of our operation. We've been awarded franchisee of the year just for the way we run our locations. We always keep it overstaffed, we keep it clean and if we have to have security, we provide it when needed. We build above the average when it comes to the overall appearance, the look, the cleanliness, the staffing, so safety and security is very important for our customers. It's very important for our employees and that's how we succeed to keep safe and secure and clean and well lit locations.

Commissioner Hunt said we still don't know the tenants going in there, right? Is there any idea on any other tenants that might be coming in?

Ms. Hodges said no, we don't at this point.

Commissioner Hunt said the other question I had is about the underground gas storage. Do you know what leak detection methods are going to be used?

Mr. Mofelhi said the industry has evolved so much since back in the sixties and the seventies when there was a lot of bad history and bad leakage and contamination. Nowadays, those dispensers are equipped with a lot of sensors, equipped with contaminate solutions and containers under each one of the dispensers that alarms to early warning if any drop of anything that would've ever happened, or even a leak of air in any of the pipes. Same thing with gasoline tanks. Those are double walled steel and fiberglass. And there is also sensors and 24 hour monitoring systems that make it nearly impossible for any disasters to come out of those equipment.

Commissioner Walsh said Chief, if you could come up here. There seems to be some concern about security. Can you give us some idea of what kind of incidents and number of incidents we see around gas stations, etc.

Chief Barry Graham said I've provided some stats and stuff I got this morning. *Refer to Exhibit No. 3.* The majority of our stuff is what we call a Part Two crime which is going to be larceny, shoplifting, things like that. We have very few violent crimes on average. In 2022, we had four. Two of those were aggravated assault, two were robbery out of our 15 stores in town. We have 15 gas stations. Same thing in 2023, two aggravated assaults, two robberies. The vast majority are going to be a simple assault, intimidation, credit card fraud, driving under the influence of narcotics, things like that.

Commissioner Walsh said so I'm understanding four incidents per 15 stores per year.

Chief Graham said that is correct.

Commissioner Quarles said these stats, do they equate to the 7-11 that's at Mt. Holly-Huntersville Road and Harris Boulevard.

Chief Graham said that's in Charlotte. I have limited access to those stats, but I can go through and look at the case reports – 2022, 2023, and so far this year they have no robberies. They've had one aggravated assault out of the last three years. Property crimes are about consistent with what we have up here.

Commissioner Bergsman said I'm noticing as I'm looking at this that there's definitely been a drop in 2024 and I just want to commend HPD.

Commissioner Walsh made a motion to approve Rezoning Amendment Petition #R24-03 Long Creek Retail to rezone approximately 4.39 acres located at the intersection of Mt. Holly-Huntersville Road and Beatties Ford Road from Highway Commercial Conditional District to Highway Commercial Conditional District for a convenience store and retail commercial use development with the following conditions. Number one, inclusion of the public street connection during Phase 1 to ensure necessary infrastructure to connect to adjacent parcels is developed upfront.

Number two, the plan accommodates the construction of the entirety of the required side path along with development frontage during Phase 1 of the development to add a key pedestrian connector to the plan.

Number three, any TIA improvements approved by NCDOT are constructed in Phase 1 of the plan and the leftover turn lane to Beatties Ford Road is removed upon completion of Phase 2, making the driveway on Beatties Ford Road a right-in/right-out only driveway access.

Number four, the 30' rear buffer modification with a grading that does not exceed a 3:1 maximum slope to ensure healthy plant growth with ground stabilization and shall meet all planting standard requirements.

Number five, ensure that the northwest buffer adjacent to parcel 0152643, accommodates an interim 15' evergreen screen for the new right-of-way construction.

Number six, address all minor staff comments made on the plan prior to final approval.

It is reasonable and in the public interest to approve the petition because it is consistent with Future Land Use Implementation Policies LU 6.1 and LU 6.2, and it adds a key commercial node to a designed Activity Center within the Huntersville 2040 Land Use Plan.

Commissioner Dumas seconded the motion.

Commissioner Walsh said most of this plan kind of speaks for itself. First of all, this is a commercial property in a commercial node. We just recently just a few yards up the road approved the Long Creek Entertainment Center. And we heard many things about, you know, prostitutes would be out, and all kinds of other unfounded things. Part of the reason for our approving that was so that people in that area had some kind of opportunities to go to a commercial area. In that case, we rezoned actually residential property to get some commercial activity. Again, this is the intersection of two major thoroughfares. It's designated as a node and there's no reason I feel that we shouldn't move forward with it.

Commissioner Hunt said I understand what Commissioner Walsh is saying, but I'm a little disappointed by the lack of effort to save trees. And I completely understand that it's difficult to work around the various requirements there. But you heard from the Environmental Sustainability Committee tonight, there's definitely an appetite in town to stop doing so much mitigation. I understand that, but I do think it's disappointing. We've had a lot of problems in town with buffers and slope modifications to justify building on a site that's already challenging. I also heard you talk about the leak detection equipment that's being used, but data shows that gas tanks eventually leak and there could be some damage before anything is caught and there's going to be 150 homes in that area, so that's a concern for me. I'll be voting no.

Commissioner Rivers said in agreeing with commissioner Dumas, I have been on the fence with this all the way up until now. There have been a lot of challenges, a lot of changes, a lot of things just coming up that have really kind of pushed me to not being in agreement with this right now. I think it's a lot to do with the timing of it. I'm not sure this is the best project for that. I know it's deemed for commercial, but I just feel like maybe this might not be the right project. I just feel like with all the challenges that have come, I think we just need to work through some more things and just get it solid to where we're not having all of these challenges coming up, so I will be voting no.

Commissioner Dumas said I think I'm reluctantly leaning yes or saying yes. It's already zoned in commercial and the tax benefits. I think it is a great start to having some development that we want in that area. But I do have so many frustrating concerns that have already been stated, but I think I'm a yes.

Commissioner Bergsman said I appreciate the attempt... this is an Activity Center and, you know, trying to bring some growth and spur some economic growth in that area. I don't necessarily feel that this

project is the right fit for that and this was a hard choice for me as well. I keep hearing about the challenges. You actually mentioned tonight that things are running over budget to try to meet what the town is requesting in terms of road improvements. And as I keep hearing these things, it just seems to me that it is not the right fit for this location, so I will be voting no.

Commissioner Quarles made a substitute motion to deny Petition #R24-03 Long Creek Retail, a request to rezone approximately 4.39 acres from Highway Commercial Conditional District to Highway Commercial Conditional District. The petition is inconsistent with Policies EOS-3, LU-6.1, and LU 6.2 of the 2040 Community Plan. The Long Creek Village Activity Center calls for a mix of interconnected residential and commercial uses to encourage pedestrian traffic, but this development does not fully integrate both commercial and residential uses into the Activity Center during the initial phase of the project. the addition of a gas station to the Activity Center would have the effect of increasing vehicular versus pedestrian traffic. The petition is not reasonable and in the public's interest because:

One, the development is surrounded by single-family residential users to the north and east, while the area to the south is zoned for commercial. It is currently vacant without interconnection the residential and commercial uses in this Activity Center. The development is in incompatible with the surrounding land uses of the 2040 Community Plan, as it does not establish a mixed-use Activity Center that encourages pedestrian traffic.

Number two, the request to modify the buffer against the single-family usage from 30' to 15' will result in the detriment to the surrounding residential property owner or owners.

Number three, the failure to satisfy the Town's minimum tree preservation requirements would serve as a detriment to the community and the environment.

Commissioner Rivers seconded the substitute motion.

Emily Sloop, Town Attorney, said you need a vote on the substitute motion first.

Mayor Clark called for the vote on the substitute motion which is to deny the project. Commissioners Bergsman, Quarles, Hunt and Rivers are in favor. That motion passes.

Petition #TA24-14. Petition #TA24-14 is a request to align the Town's Soil Erosion and Sedimentation Control Ordinance with state law.

Brian Richards, Planning Director, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 4.*

As you just stated, this is a, a text amendment to update the Town Soil and Erosion Control Ordinance. Listed on the screen in front of you by the articles that will be in alignment with Session Law 2023-108 and then Article 153.1111 for Session Law 2023-142. I'd like to mention on October 22, the Planning Board did recommend approval unanimously.

Commissioner Quarles made a motion to approve Petition #TA24-14 to align the Town's Soil Erosion and Sedimentation Control Ordinance with the state law.

Commissioner Rivers seconded the motion.

Mayor Clark called for the vote to approve Petition #TA24-14.

Motion carried unanimously.

Environmental Sustainability Committee Appointments. Consider appointing two members to the Environmental Sustainability Committee due to two vacancies.

Commissioner Bergsman nominated Mary Ann Sprung and Anne Marie O'Neill.

Commissioner Quarles nominated Mary Ann Sprung and Anne Marie O'Neill.

Commissioner Hunt nominated Mary Ann Sprung and Anne Marie O'Neill.

Commissioner Dumas nominated Mary Ann Sprung and Anne Marie O'Neill.

Commissioner Walsh nominated Mary Ann Sprung and Anne Marie O'Neill.

Commissioner Rivers nominated Mary Ann Sprung and Anne Marie O'Neill.

Commissioner Hunt made a motion to appoint Mary Ann Sprung and Anne Marie O'Neill to the Environmental Sustainability Committee.

Commissioner Quarles seconded the motion.

Mayor Clark called for the vote.

Motion carried unanimously.

Resolution – NCLM Commit to Civility Program. Mayor Clark said I just want to give some background on this. Some of the commissioners and I attended City Vision in the spring and we learned about this Commitment to Civility there. It was something that appealed to us as that has been part of our mission as a board to maintain civility. It's a program that promotes civility in local government and recognizes these governing boards that dedicate themselves to this approach. It engages and challenges municipal officials to embrace civility throughout the course of their work and within their communities. The objectives are to understand that civility is about disagreeing without disrespect, seeking common ground as a starting point for dialogue about differences, listening past one's preconceptions and teaching others to do the same. Civility is the hard work of staying present even with those who have deep rooted or fierce disagreements. Civility is inherently political not only to those, it's a prerequisite for civic action and it's because about negotiating interpersonal power so that everyone's voice is heard.

Commissioner Bergsman made a motion to adopt the Resolution for North Carolina League of Municipalities Commit to Civility Program.

Commissioner Hunt seconded the motion.

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 5.

CLOSING COMMENTS

Commissioner Rivers wished everyone that celebrates a happy Thanksgiving.

Commissioner Hunt expressed appreciation to the Environmental Sustainability Committee for their presentation and congratulated the appointees.

Mayor Clark expressed appreciation to the Environmental Sustainability Committee for their presentation.

There being no further business, Commissioner Dumas made a motion to adjourn. Commissioner Rivers seconded the motion. Motion carried unanimously.

Approved this the 17th day of December 2024.