

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING (VIRTUAL)
MINUTES**

**February 7, 2022 – 6:00 PM
HOSTED FROM TOWN HALL (101 Huntersville-Concord Road)**

PRE-MEETING

The Huntersville Board of Commissioners held a Pre-meeting (Virtual) hosted at Huntersville Town Hall, 101 Huntersville-Concord Road, at 5:15 p.m. on February 7, 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.

Social Districts Presentation. Mike Lant, North American Properties, was scheduled to present a PowerPoint on Birkdale Village's request that the Town of Huntersville consider creating a Social District pursuant to Session Law 2021-150, House Bill 890, however he was unable to establish a connection to the meeting. Anthony Roberts, Town Manager, briefly reviewed Mr. Lant's PowerPoint. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

Emily Sloop, Town Attorney, said my understanding as of the last time I checked was that Kannapolis is the only town that has currently adopted an ordinance regarding the Social Districts. Again, this is a new statutory grant of authority, so there's little to go by out there. We would be responsible for creating an ordinance if we were to go down this path. We would also have to revise some of our current ordinances regarding not having open containers in public streets for instance and carve out an exception for the Social Districts. We would also have to negotiate and enter into a management plan with the owners and the participants within the Social District, and I think Anthony touched on the fact that the Social District map would have to be sent to the commission as well.

As far as the enforcement, there is a requirement which was in the presentation that the number for ALE and the number for local law enforcement be included on the signage. The Management Plan would address how some of the other requirements, such as disposing of the cup before exiting the Social District and preventing reentry after exiting, would be enforced. That would largely be on Birkdale and its tenants to enforce and perhaps any violations would be enforced jointly by local law enforcement and ALE, but that's something that would have to be addressed very clearly in the Management Plan.

Mayor Bales said I know that we allow the sale of beer and wine at Veterans Park currently and there's signage that gets put up. How is this different than that?

Ms. Sloop said this would be not for just a specific event, but this would be for the entire district at all times specified in the plan. It would be on a request-by-request basis to create the districts, but once we've created a district, then that would open the door for other requests to come in for those districts.

Mr. Roberts said you will see where certain restaurants and venues may have like a one-day permit or they will get a special permit to expand their boundaries maybe outside of the restaurant for special occasions, but this would be continuously throughout the year.

Commissioner Kidwell said unfortunately the presenter is not able to answer these, but Anthony maybe you can. How are we going to deter underage drinking? We were all kids at one point, and we all wanted to have one of dad's beers or whatever. They could just find a cup, go in, they've got a cup.....are they going to give bands out – a band that says that you are over 21.

Mr. Roberts said my understanding, and I don't want you to hold me to it because it's very new, but to be able to have alcohol you have to be able to have that particular cup that has Birkdale Village, 21, etc. Everything has to go in that cup. The question may be, pull a couple of cups out of the trash can and wash them out and take them home. I can't answer whether that cup routinely changes. I may have my liquor bottle in my pocket and pour it in the cup while I'm out in the parking lot. I think about those things, too, but I don't have a good answer for that.

Commissioner Kidwell said the person who was presenting this is unable to speak on that, but I think the Board should consider that. I was pretty, I won't say wild as a youth, but if something was presented like this to me, I would find ways to get a cup so I could go grab a cheap Natural Light from some place. Obviously, my tastes have expanded since then, so I would be looking for Busch Light or Miller Light. I guess the other question, and you probably can't answer this, but looking at the map these things kind of veer off into the parking deck there. How are they going to control adults who are like, you know what I'm not paying \$9 for a drink at Red Rocks, I'll sneak some mini bottles in and just keep refilling my cup. I'll go to my car and just pull a fifth out, fill it back up, swing back out there to the festivities. What's their plan on that?

Mr. Roberts said these are all good questions. I'm sure Mike is listening, so hopefully he's jotting notes down and he can answer these questions.

Commissioner Kovacs said I know we have the police phone number on the signs that would be posted, but I would assume we are going to need a lot more patrolling around the area just to make sure things are being enforced correctly and with our manpower in the Police Department being spread a little thin, how do we go about covering that and would Birkdale be responsible for paying for that or is that part of a patrol area.

Mr. Roberts said one of the things we've talked about is enforcement. Birkdale does have their own security. Obviously, we have police. One of the things that we could look at and one of the things I think maybe Emily and the Chief looked at when they took a first look at this was the whole enforcement issue of whether Birkdale enforces it from like patrolling the parameters, making sure the kids are not washing a cup out of the trash can and putting beer in it, those kinds of things. That's something we've talked about, but before we got too far in the weeds, we kind of wanted Mike to do the presentation and then just see where it goes. He's listening. I saw his note on the Chat where he's taking notes to help address some of these.

Commissioner Partee said having experience working with the New York State Liquor Authority, most of your venues that sell liquor or have a liquor license, specifically those that are in Birkdale, will be responsible for carding anybody that they issue or pour drinks to. Once they walk out of the venue, then they are not going to be held harmless, but I would think that Chief Hoyle should be on this call because there might be a possibility we might need a satellite command post somewhere near or

around Birkdale, where we have extra security or extra police officers that would patrol. As you know, when you have alcohol and people drinking alcohol, you are going to have incidents of alcohol disorderly conduct.

Mayor Bales said we are hearing you. I don't know if you are aware, we do have a satellite space in Birkdale, so that our officers are routinely rotating through there as well. I think these are all great questions that Mr. Lant can gather all of your questions and be able to come back and present this maybe again and answer more of those questions at another time.

Commissioner Boone said how are we going to handle overserved? If I go into Establishment A, get a little bit tipsy, and walk out and the next place I just have one drink, get in an accident, that last place I think would be liable.

Commissioner Munger said are the cups themselves actually recyclable, and is it possible that they might be putting in place, if they are recyclable, something to recycle these cups, which might also help account for all the cups. I wanted to follow-up on something Commissioner Kidwell said. I actually like the idea of banding people. If they are over 21, they have a band and they have a cup. It's a no-brainer. If you don't have the band and you have a cup, then you get to question that person. Do we anticipate this occurring in any other locations in the town?

Mr. Roberts said we haven't had any requests yet. This request came from Birkdale. This is not Anthony, Emily, Chief. This is a Birkdale request. This is the only one that we know of so far, but this is a new statute.

Commissioner Munger said you probably already thought about it, but when we did the event type of situation for Hunter House, we set it up so that they would have to have an off-duty police officer or something there for events. To offset that cost for us, I would encourage us to seek a similar path with Birkdale Village.

Mayor Bales said since they have experience with this in other locations, I think some of the best practices across their projects, I'm sure they'll be able to answer a lot of these questions because we can't be the only ones asking them. I'm sure they've come up in the past in other places. I'll be interested to hear a lot of how they've handled these questions that you've asked thus far.

Chief Bence Hoyle said I will say that there is concern about the enforcement Ms. Kovacs brought up and some of the others. There's a couple of ways to handle that. Typically, in dealing with just a business, it's an off-duty employment type of situation and the business owner would pay for it. It depends on the situation. The issue with that is all off-duty is voluntary. We cannot compel anybody to work off-duty. We can, but we just pay them time and a half if we make them work. The issue comes up is how do we sustain this over a longer period. I've been doing some research this week about social districts in other states and talked to the Chiefs Association about it and one common way is to create a tax for this district. We would have to figure out what that is, and it would be just enough to cover the cost of ongoing enforcement. We could use on-duty staff or off-duty staff or whatever. It gives us a little bit more flexibility. That's one thing to consider. I do think if you look at the proposed language, there's probably 12 different items that have to be enforced by somebody and some of those seem to be specifically related to police about consumption and things like that. I do recommend we try to figure out a way to fund it. I'm going to end up coming and asking you for people anyway. If it gets to be too much and if we have five or six of these districts across town, in time it could get to be an issue. The good news is I think if we start enforcing it from the beginning, we can deter a lot of that. But I can tell

you, people will absolutely go find a cup and find any way they can to manipulate that situation. That's just human nature.

I do want to make one comment that Mr. Munger brought up about the special situation we have with the business where they have to have a police officer on duty. I would not recommend going that way. In fact, we would probably need to relook at that particular situation because off-duty employment is voluntary and the only way for us to meet that requirement is to take an officer off the street and send them down there to stand-by. I understand why that was done. It was done to try to make sure enforcement was there, but there may be a better way to do that than the particular language that's in there.

I will tell you generally, social districts I think are not problematic as far as creating crime situations. It does help walkability and it helps revitalization, but there is an enforcement piece to it that we have to figure out how to get it right.

Mayor Bales said have you had conversations with Birkdale Village about this specifically?

Chief Hoyle said no, I have not.

Mayor Bales said I think that probably would be a good idea, to sit down and see how they are doing it in other places as well, because you might get some ideas that would be beneficial.

Chief Hoyle said I've researched around the state. There's at least a dozen, maybe two dozen cities that's in the same process that we are – they're considering it, they're going through public hearings, so I think this is coming, it's just a matter of how we address it upfront.

Commissioner Partee said what's the procedure if in fact the officer who is working off-duty gets involved with an arrest. Does he automatically become on-duty at that time or is he still off-duty?

Chief Hoyle said typically when they make an arrest, they will become on-duty at that point, because workers comp and all that comes into play as well. They can remain off-duty if we've got officers there to help him and take over, but we can do that either way. Right now we can cover about 20 to 30 percent of our off-duty. We have a lot of off-duty, much more requests than we've got people to handle. We pull people from the Sheriff's Department and Charlotte and Cornelius and anybody else who wants to work down here, we will pass that off-duty to them, but we still don't cover it all. I think in this situation it's not a special event, it's on-going, we need to figure out a sustainable model to be able to make sure we can cover it. I don't think it's going to take much – maybe two officers on bikes on the weekends. I don't think it's going to be terrible to cover, there's just going to be times if we don't figure it out that we are not going to be able to cover it. We just won't have the people available. I really worry about big events that happen. If we have a big event like we had this week and all of a sudden I've got 12 officers on one crime scene trying to sort things out, I don't have anybody to meet that obligation.

Commissioner Phillips said the signage, I see that it's like the three spots. I think that it would probably be more ideal to have it on the interiors of the parking deck so that when people exit, they are aware of the rules already in place with the time and the locations, because I can hear the excuses of I didn't see the sign, so that could help alleviate some of the issues. Also, putting them outside of each establishment that will be participating in that so when you walk in you know the expectations that are set upon you. I feel like that could help alleviate some issues. I know everyone keeps bringing up

underage drinking, but Birkdale opened when I was in high school and nothing has changed except kids use Starbucks cups and they still do. However, I feel like the Town has been responsible with changing age requirements and the people over Birkdale have gotten a little bit more mindful of having younger people around and having their own staff on hand to handle issues, so I don't really see that because the thing is, if you are inside drinking, outside drinking, there's always going to end up being something and luckily for us we don't have as many issues as some other towns, but I do think we need to have the Chief involved in these conversations because that kind of experience and the what-ifs I think are really critical. I think this could be promising to help Huntersville maybe become more of a little vacation area and I have faith in people that they will drink responsibly and I think this helps even normalize that one beer walking around isn't weird, so I'm looking forward to seeing how this progresses over time.

There being no further business, the pre-meeting was adjourned.

**REGULAR MEETING (VIRTUAL)
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners (Virtual) was hosted at the Huntersville Town Hall, 101 Huntersville-Concord Road, at 6:00 p.m. on February 7, 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.

MAYOR AND COMMISSIONER REPORTS – STAFF QUESTIONS

Mayor Bales

- Participated in Metropolitan Transit Commission meeting last week.
- From Lake Norman Economic Development Corporation, Huntersville has a total of 28 projects and hosted a company last week for a project visit.

Commissioner Boone

- Attended the NC Power Agency meeting on January 25.
- Provided update from the Huntersville Fire Department.
- New stop signs have been installed at the corner of Central and Holbrooks.
- Registration is open for Huntersville 101.
- Huntington Green is holding a Festival for Services on April 2 at Lake Haven Community Church. The event will provide information and services to the community that the County and the Town of Huntersville provide.

Commissioner Kidwell

- Provided update from the Charlotte Regional Transportation Planning Organization meeting last month.
- Details are being finalized for a Veterans Affairs Officer to have office hours in Huntersville once a week.

Commissioner Kovacs

- Encouraged residents to sign up for Huntersville 101.
- Provided update from the Lake Norman Chamber of Commerce.
- Provided update from the Huntersville Regional Chamber of Commerce.

Commissioner Munger

- Huntersville Ordinances Advisory Board did not meet this month.
- Next meeting of the Public Arts Commission is February 9.
- Attended groundbreaking ceremony at Birkdale Village for the new Jewel Box shops on January 26.
- Attended the Building Our Infrastructure Virtual Town Hall presentation by Congresswoman Alma Adams on January 27.
- This Wednesday will tour the Lake Norman Elementary School and learn about one of our local charter schools.
- Consider supporting local non-profits.

Commissioner Partee

- As part of Black History Month, recognized Garrett Morgan, a black American inventor who patented the first traffic signal light.
- Town of Huntersville Black History Month celebration events will be held at the Waymer Center every Monday during February. Expressed appreciation to BeeJay Caldwell for her presentation today.
- Provided update from the Huntersville Greenway, Trail and Bikeway Commission meeting on January 19.
- Reminded everyone Huntersville Police Department has free child safety gun locks.
- Consider supporting Cool Kids Clubhouse.

Commissioner Phillips

- Provided update from Ada Jenkins.
- Provided update from Visit Lake Norman.

Commissioner Kidwell said Ms. Huffman, you recently provided the Town Board with numbers from Discovery Place Kids. As I dove into those numbers, it looks like on average for the years of 2015 through 2019, they had 688 people visit daily during their operating hours. That averages about 98 people per hour. Is it possible for them to provide how they are measuring their numbers, with what technology, and provide the Board with financials to support those numbers.

Jackie Huffman, Deputy Town Manager, said we would be happy to ask them for that. I'm confident a copy of their financials is on their website, but we will get that.

Commissioner Kidwell said Ms. Sloop, I just need some clarification. One of the reasons that's continuously given for not wanting to pull items off the Consent Agenda to vote on is we would end up in litigation if it was a developer or an individual who paid for such public hearing or some item change.

However, if the Town staff is calling for such public hearings and not an individual or developer, would the Town then file a case or a complaint against themselves if it was voted against.

Emily Sloop, Town Attorney, said the reason that we typically have our calls for public hearings, which are not legally required, they're actually going a step above and beyond what is legally required just to provide additional notice. The reason we typically have those on Consent is because we typically do not deny any requests for public hearings.

Commissioner Kidwell said I understand that, but the case given it's generally that if we vote against it, we are going to end up in litigation. I'm saying where the Town is calling for a public hearing, staff is, and an individual wants it moved up for further discussion or just a breakdown of what that public hearing is going to consist of, would the Town sue themselves.

Ms. Sloop said I understand the question, I was just providing the background as to we wouldn't typically deny a request for a public hearing because we wouldn't want to be in the business of picking and choosing which public hearings that we allow versus disallow. I highly doubt that the Town would try to sue itself, though, in response to your question.

Commissioner Kidwell said is there any background or proof, because we have pulled things off the Consent Agenda to discuss them in the past, public hearings, has any of those ever been voted against not to be heard.

Ms. Sloop said in discussions that I had with Jack earlier today, in his 20 years with the Town, we've never denied a request for a public hearing.

Commissioner Kidwell said Mr. Richards, are you around? We may or may not potentially talk about something called Traditional Neighborhood Development Urban Conditional District. Would you mind just kind of giving a summary of what that is.

Brian Richards, Assistant Planning Director, said it's one of our zoning districts in our ordinance. It allows for more of a in layman's terms throwback old school neighborhood as opposed to what you see in your contemporary subdivisions. That's pretty much it in a nutshell.

Commissioner Kidwell said Ms. Mielenz, is she available?

Jack Simoneau, Planning Director, said I don't believe she has any items on the agenda, but I'd be happy to try to answer any questions.

Commissioner Kidwell said that would be great, Jack, thank you. We may or may not potentially talk about downzoning. I would just like a brief explanation of what downzoning is.

Mr. Simoneau said it's just generally speaking, if you have a property and let's just use Residential zoning. Let's just say you have Residential zoning that allow 5 units an acre and it gets changed down to 2 units an acre zoning. This is hypothetical. That would be considered downzoning.

Commissioner Kidwell said Jack, if you are still there, since Ms. Mielenz is not available, I would like to talk about the potential of rooftop amenities. I was just curious.....I'll hold off and wait to talk about this later under a different discussion.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

BeeJay Caldwell, said thank you for inviting me. I have had a wonderful day. We were over at Waymer and that went real well and I'm glad that I was able to come in person because I am mystified by this Zoom. I hope soon the pandemic will allow us to meet in person hopefully, but if not as long as you will give me special permission to come in, I'll be delighted to come in.

My Black History presentation today is on a well kept secret in Huntersville. It's the Rosenwald School #2, located on Dellwood Drive. Institutions of this type of learning have all but disappeared and they are in danger of being lost to time. This is significant as there are only a few left to tell the story of how African-Americans got their first chance to be educated and literate in the twentieth century. It is worth being publicized that soon it may have the designation for a historic landmark locally.

Now for a little more information about Huntersville Rosenwald School #2 for black children. For the last 100 years Pottstown leaders humbled and sacrificed themselves to answer the call for justice for citizens. They fought for the good of others, especially the elderly and children. For the sake of humanity, their focus was and is on compassion for the most vulnerable citizens. Black congregations opened their doors to help educate the descendants of the enslaved early on.

After the Civil War, Huntersville's governing body had no options for educating the descendants of the enslaved who had been forbidden to learn to read and write. Education was to be their only way out of poverty. So Huntersville Rosenwald School was the means citizens used to move beyond being stuck illiterate to an opportunity of becoming educated. Julius Rosenwald and Booker T. Washington answered this call by creating the matching grant program that led to Rosenwald Schools being built throughout the south and believe it or not, 813 were in North Carolina.

Huntersville is the proud owner of two. You may not know this, but the Caldwell Rosenwald School located on Highway 73, I think it's Burgess Supply, is one and the Rosenwald School #2 for Black Children on Dellwood is the other. Today the Parks & Recreation Director, Mr. Michael Jaycocks, gave me the good news that the little Rosenwald School will be available back as a rental in March 2022.

As is evident 100 years later, change has come to Pottstown as over half of its original citizens have died or moved away. Today there is no Pottstown, it's the site of homes to several nationalities and is a bargaining chip between the Town and the developer.

I hate to hit you with that, but that's how I see it and if you can make some changes to help me understand that is a mischaracterization, I certainly shall appreciate it.

Written comments attached hereto as Exhibit No. 2.

AGENDA CHANGES

Commissioner Munger made a motion to move Items 9.E. (call for public hearing on Petition #R21-17), 9.F. (call for public hearing on Petition #TA2-15), 9.G. (call for public hearing on Petition #TA22-01, and 9.H. (call a public hearing on Petition #TA22-02) to the Consent Agenda as Items 10.B., 10.C., 10.D. and 10.E.

Commissioner Phillips seconded motion.

Mayor Bales said is there any discussion around moving the items 9.E. through 9.H. from Consent. Before we start with discussion, I would like to refer back to our Rules of Procedure, under Rule 4, Item C, the Consent Agenda, just to make sure that we are all understanding, it says "Approval of minutes and other items that are judged to be non-controversial and routine shall be placed on the consent agenda...." And then it moves on to say, as a matter of fact I'm just going to read the whole thing, so everybody understands our rules. "The Board may designate a part of the agenda as the consent agenda. Approval of minutes and other items that are judged to be non-controversial and routine shall be placed on the consent agenda by those preparing the proposed agenda. The Town Manager shall have the authority to place any item on the consent agenda as part of the proposed agenda. Any member may remove an item from the consent agenda and place it on the regular agenda while the agenda is being discussed and revised prior to its adoption at the beginning of the meeting." We are now in that beginning of the meeting.

My question as we are opening this up for discussion, my question to each of you, because I think that's the litmus test, is it non-confrontational or non-controversial and routine. I would like to hear from everyone, please. I think we have continued down this path and we need to understand our rules and how we are going to be working with one another. I'd love to be able to not have to stop here at Agenda Changes every Board meeting.

I have a motion and I have a second to move calling four public hearings over. Are any of these considered non-controversial and routine, because obviously they're routine. We call public hearings every Board meeting, so now it leaves us with the other litmus test of non-controversial. I would also remind before we start the dialogue that we are not discussing the merits of the item, we're simply talking about calling of the public hearing. The discussion on those items comes during the public hearing itself.

I will start with Commissioner Phillips. I would like to ask you regarding the calling of the public hearings. I'm sorry, Commissioner Boone, I see your hand.

Commissioner Boone said point of order. We have a motion and a second on the floor. The person that made that motion is usually the first one to speak on the motion.

Mayor Bales said thank you, fair enough. Commissioner Munger, would you like to kick us off.

Commissioner Munger said I'll keep it simple. Based on the rules, is this routine? Yes. Is this non-controversial? Yes. And I answer that to all four of the items.

Mayor Bales said I will move from there, I'll go to Commissioner Kidwell, because I'm sure you've got some points you would like to make.

Commissioner Kidwell said as I said the last time, in being transparent with the general public, I see if it's non-controversial, if it's routine, then what's the problem with actually talking about it, getting a little bit more summary from Town staff about what it's about. For instance, what would be 10.F., calling a public hearing for the TOD, talks about Petition #TA22-02, which isn't even on the website yet. Yes, we are calling for a public hearing for something that's not available for the public to even see. I think that would be a great discussion point. We talk about another one that's somewhat considered routine and non-controversial, it's about amenities on rooftops when in fact what they are using for the amenities and rooftops section is one of the most controversial votes of the previous Board and that was the North State project. There's a lot of questions that should be asked before that comes in front of us. I

think that is controversial. That was one of the main reasons that Save Downtown Huntersville rose up and now we are having something that's going to be calling for a public hearing that the HOA Board, either I think I heard two or three times voted on it. They were a divided vote and yet staff is still bringing it in front of us and I think we should talk about that before we call for a public hearing. As the attorney stated, these are public hearings called by staff, so we are not going to be litigated by our own staff if we say I want more information before that's called, the public hearing. Are we saying no to that or we say but make sure you have your ducks in a row for that public hearing, otherwise staff comes unprepared for the public hearing to talk to us about it.

Mayor Bales said I would like to, since.....

Commissioner Kidwell said point of order. Since we are talking about rules, Rule 9 in our Rules says when the presiding officer is in active debate or become engaged in debate on a particular proposal, he or she may, but is not required to, designate another Board member to preside over the debate. Also, under Roberts Rules of Order, everybody else should speak before the Chair, which is the Mayor position.

Mayor Bales said I am happy to do that. I will tell all of you and for everyone, my preference is to be completely objective and to sit back and the Board needs to be working through these things. When I'm put in a position where I'm having to vote, that is a different conversation. I want to make sure that everyone of us understands the rules in which we are working. I am very frustrated that there seems to be an unwillingness of this Board to work together, because that's what I'm seeing right now. I think that it's very important that each and every one of you collectively is working to find resolution and solutions and not being combative with one another, especially on the Consent Agenda. I'm simply laying the rules out and then everyone is having the opportunity to weigh in and I also think at some point after all of you have this opportunity to weigh in that then we will also allow the Town Attorney to come in and share with us her views as well and at that point I want you collectively to make some decisions to move forward. This Board continues to be stymied and we've got to figure out how to work together, otherwise what I'm seeing are individuals digging their heels in on either side and we're never going to get anywhere. That's what I'm seeing and that's what I would like to change. We've got to work together for the common good and the reason that every single one of you are here is for the residents of this community. I believe that. I know that each one of you love this community. We shouldn't be stymied over what's on Consent and calling a public hearing should be non-controversial, and yet here we sit. Thank you, Commissioner Kidwell. I'm going to move through so everyone has an opportunity to speak. Commissioner Partee, would you like to share your thoughts.

Commissioner Partee said I'm going to drop down to Item 9.H. which is now 10.E. and the reason why I'm particularly focused on this provision to amend the Zoning Ordinance Article is because last month I was the only dissenting vote against this one. I cannot in good faith vote to move this over because I was the only dissenting vote. I still feel that I haven't been adequately satisfied about why this is on here and not given back to the Downtown Committee to let them make a decision on it. I was even included last month.....

Mayor Bales said I just need a point of order. We are not debating the items, the substance of them we are not debating, because that happens through the process of the public hearing and moving forward.

Commissioner Partee said my issue is I dissented on it last month and I can't vote for it now.

Mayor Bales said thank you Commissioner Partee. Commissioner Kovacs.

Commissioner Kovacs said so your two questions were.....what were your two questions.

Mayor Bales said my two questions were is this routine, do we do this regularly, calling for a public hearing. And then the second one, is it non-controversial. Items that are on the Consent Agenda should be non-controversial.

Commissioner Kovacs said I do think that we do this, but I can't agree with the fact that they are non-controversial. As Commissioner Kidwell and now Commissioner Partee pointed out, there's some important topics and they are ones that have to do with our Planning Board bringing them up, not an applicant, so my answer is no to the second question.

Mayor Bales said thank you, Commissioner Kovacs. Commissioner Boone.

Commissioner Boone said it seems to me like we started this discussion or debate and then you set the rules of the debate after Commissioner Kidwell made his opening statement. You can't change the rules once the debate starts. I firmly believe that if one commissioner has one question, then that item needs to be pulled off the Consent Agenda.

Commissioner Phillips said dealing with a toddler is less frustrating than this is right now. Calling a public hearing is non-controversial. It is routine. I feel like we should be setting and showing the same respect and standards for our staff that we show to third parties. I think that is problematic for me. These discussions right now have me concerned because I feel like people are already showing their partiality. Also, public hearings are for the public. They are not for us. Sitting here with people saying well, I don't like this one.....well, I don't like that one, we are all allowed our own views and feelings on these things, but the thing is the public, not us, deserves to have these hearings, so they can tell us how they feel and think. Frankly, there have been things that have been public hearings I didn't support and I still supported them being a public hearing because it wasn't about Stacy's interest, it was about the best interest of Huntersville. I would like to see us be better about this. The thing is, if we don't want to call public hearings because we don't like something, then we are getting in our own way and I just really hope that this is the end of this because we should be better.

Anthony Roberts, Town Manager, said just a suggestion. Calling public hearings are not required and probably not many towns do it at all. You've got to follow the statutes, you've got to have a public hearing, you've got to go to the Planning Board. What we are getting hung up on the simple thing of calling for a public hearing. If we did our research, not many, if any, do that. If we didn't have those on the agendas to call for the public hearings, we may not be having this simple debate. That's just a suggestion, but obviously the Board can do what they want to.

Mayor Bales said Ms. Sloop, would you like to weigh in at all.

Emily Sloop, Town Attorney, said the only thing that I would add to the conversation aside from what Anthony had just mentioned as far as the calls not being legally required, is that what is required that once we call the public hearings we still have to go through the notice requirements that are in the statute, publish the notice, we then have the public hearing where the public can come and speak. The Planning Board then considers it, at which time the public can speak at the Planning Board meeting. We then have it come back to the Town Board a third time for final action, when the public can also speak at the comment period. There are multiple times for the public to weigh in on these matters that come before the Board. I just wanted to make sure that it was understood that the Town has always been

doing what is legally required as far as notice. This is just going above and beyond that required notice as an additional heads-up that a public hearing is coming down the pipeline. In no way by not having the call for a public hearing do we segregate any of the rights for the public to speak at the public comment periods on multiple occasions.

Mayor Bales said by having the conversations around whether or not to call for the public hearing, is the Board then debating the issue before the public ever even gets the opportunity to hear it.

Ms. Sloop said depending on the extent of the conversations around the question, that is a potential. There are specific conflict of interest rules that have to be considered and really the question that is before the Board right now is whether or not to call the public hearing. The question is not whether or not you are in support of or against a particular item that is up for a public hearing.

Mayor Bales said thank you. Any other questions or comments? Commissioner Kidwell.

Commissioner Kidwell said I'll tell you, after the last meeting I was texting Commissioner Munger and no hard feelings. Maybe that's an issue with some people on the Board about that if they lose an argument or whatever, that they've got hard feelings against the opposing team, so to speak, but I don't. We're not all going to get along. There are going to be a lot of 3-3 votes. As far as working together, I think I'm doing a pretty good job. I'm bringing it up, we're talking about it. The Board then either votes for it or votes it down. That's called working together. That's called having open, honest discussion about these items. It's your vote. I've said this a long time, it's your vote – you have to stand by it. When I call these items up, it's not so I can say we're voting against this, we're voting no on that. It's to bring and shed more light about what's coming down the line. We have two public hearings tonight that were thrown back off the main agenda's Consent Agenda, that on social media people were like wait, we are wanting to put senior housing where. They had no idea until they saw it get moved. Why didn't we talk about it. The questions were asked. We're talking about the other public hearing regarding the waste/recycling center here in Huntersville. I just had a conversation with a citizen this weekend about that, how much they use it. Is the expansion great for the town? Are we going to be able to do more there. These are the type of things.....what are we calling this public hearing for; you know what, it's for an age restricted community, it's going to be over so and so, public hearing will be this date. That's why we are doing this. It's just simply to talk more about it. Not to vote against it, not to vote for it, but to bring more information forward for the general public, so if they are very and truly interested in speaking for or against and coming to those meetings, which hopefully won't be virtual anymore, they can.

Mayor Bales said thank you, Commissioner Kidwell. I would echo your sentiments that the work that the Board does should not be personal, but the work that the Board does should be the vote and then you move on to the next topic. There should not be, as you stated, hard feelings from anyone. Each and every one of you were elected for a reason and a purpose and for your voice to be heard. I hope that while we have had lively discussion, that doesn't prevent discussion from happening again in the future as we move through not only this evening but tomorrow and the next day.

Mayor Bales call for a roll call vote to approve changes to the agenda.

Commissioner Phillips – Approve
Commissioner Partee – Approve
Commissioner Munger – Approve
Commissioner Kovacs – Deny
Commissioner Kidwell – Deny

Mayor Bales said we are going to continue to have to work through these. I understand, or at least I'm attempting to understand, Commissioner Kidwell, your points on this. And I'm struggling with it. I'm not going to lie. I struggle with it because we are already going a step above what state statute requires. I'm struggling because if we leave it under Other Business, then it is presumed that discussion and a vote in the negative is allowed, and I certainly don't want to mislead anyone in that regard. And I struggle because we have always, since I've been on the Town Board, called for public hearings in this manner. That's the piece that I struggle with because it was not an issue when you served with me before. And I also understand that people change, and people may view things differently as we proceed and as we grow. But at this point my pros and cons here in wading through this and listening to our Town Attorney, leads me still to believe that these items should be on Consent. Therefore, I will vote to move those four calling of public hearings for March 7 over to Consent. If I can't reconcile the possible discussion and back and forth and debate over calling a public hearing, then I feel like I need to make sure that it is in the Consent space, because it shows that it's non-controversial and it is routine. It meets the litmus test of our own Rules of Procedure. That's where I'm going to stand.

Motion to approve agenda changes carried 4 to 3 (Commissioner Phillips, Partee, Munger and Mayor Bales in favor; Commissioners Kidwell, Kovacs and Boone opposed).

PUBLIC HEARINGS

Petition #R21-10. Mayor Bales called to order public hearing on Petition #R21-16, a request by Mosaic Development Group to rezone +/- 9.8 acres at 9102 Beatties Ford Road from Rural District to Neighborhood Residential Conditional District for age restricted multi-family housing (Parcel #01526437).

Brian Richards, Assistant Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 3.*

This is a conditional rezoning for R21-16, a proposal by Mosaic Development Group. This is down on Beatties Ford Road. It is 9.8 acres at 9102 Beatties Ford Road. This area is under some changes recently. We have the Oak Grove Hill subdivision that's being developed currently to the east, that's the Neighborhood Residential. In yellow to the north we have Long Creek Mini-storage facility. To the west you have the two CMS schools, Long Creek Elementary and the Montessori school. To the south you have two older rezonings – one by Glenwood Development and the other is the Long Creek Retail.

Here's a current aerial of the site. You can see there's one home on the site as well as an accessory structure. This has been looked at by the Charlotte Historic Society. It's one of their eligible homes, but per our conversation with them lately, they have no interest in pursuing a historic designation for that.

Here's the site. It's 9.8 acres, currently zoned Neighborhood Residential. The current use is single-family. No one is currently living in the home.

The Mosaic Group is proposing for an age-restricted multi-family at this site. One building, one lot. The application would allow for up to 130 multi-family units, but currently they are only asking for 123. In recent discussions with the development, that number may scoot down just a little bit, depending on their product and how the marketing works. At that 123 units, you would have a density of 12.5 units per acre.

The site is currently covered by 6.3 acres of tree canopy. That's 64 percent. They would need to save 10 percent for the site. Currently they are proposing to save 32 percent, which is 3.15 acres. There are 25 specimen trees on the property. They are required to save 10 percent, which would be 13 trees. Currently they are saving 52 percent.

They are going to be asking for two modifications. The first modification is for a reduction in parking. The ordinance requires that for every 1-bedroom unit, there's 1 parking space required and for units that have 2 or more bedrooms, you have to have 1.5 spaces. They are asking for a reduction to just over 1 parking space per unit. We've asked them to provide a parking study of all their communities and they have done that. Currently, they average 1.25 spaces per unit across all of their portfolio. That being said, their average residents have less than 1 car per unit, it's just over ½ car per unit.

When it comes to financing of their product, the North Carolina Financing Authority requires a minimum of 1 space per unit. At this time, staff is working with the developer on coming to a solution on this to see if they can come up to our standard. If not, we'll try to work with them to get some comfort level to see if we will support this modification.

There's a second modification for side yard parking. As you may or may not know, apartment building types require parking to be on the side or rear. Due to the unique topography and the shape of this parcel, the developer is asking for side yard parking. We feel we can support this request due to the difference in elevation. The parking would be approximately 5' to 8' below the elevation of Beatties Ford Road. They are also offering a 20' buffer in which that would be heavily utilizing evergreen trees on the area that would be adjacent to the parking.

Here are the elevations of the product. If you are looking in off of Beatties Ford Road, this is what you would see. As you can see the main entrance to the front is below grade. It's probably about 5' to 8' depending on how grading works out at final design. As we said they would be offering 20' of vegetation along the front, which is not required. In this second view down here on the right, you will see the main entrance to the facility.

This project is located in the Activity Center of the 2040 Community Plan, which allows for and encourages a mixture of uses, including multi-family if designed properly. We have several parts of the 2040 Community Plan that would support this.

Going back to 2005 in the Beatties Ford Road/Mt. Holly-Huntersville Small Area Plan, it actually calls for looking into the future that this could be a good area that allows for elderly housing, it's a good spot for attached housing. Here we are 15-16 years later and due to good planning practices, here we are starting to fulfill these thoughts.

At this time, we would be in support of this as long as we could address the concerns that we have for the Parking Modification #1.

Commissioner Kidwell said I noticed in this application that no TIA was required.

Mr. Richards said that's correct.

Commissioner Kidwell said I'm assuming it's because it has the term age-restricted 55 and older.

Mr. Richards said that would be correct.

Commissioner Kidwell said however, this 3-story apartment and age-restricted is often, when people see it's an age-restricted community, they think patio homes or townhomes and this is essentially a 3-story apartment building, age-restricted community, not like some of the other ones we have here in Huntersville. But it's right across the street from a shopping plaza, so with no TIA required, who is going to be responsible for building sidewalks, doing intersection improvements for a crosswalk, so these individuals who if they've only got one car or if they want to walk over there to get in their steps and exercise to go shopping at the Walgreens to pick up a prescription or Food Lion or Lowes Food, whatever it is over there, who's responsible for those improvements.

Mr. Richards said the applicant will be installing a 10' path along their property edge along the front of the building. They are also going to have a trail for their residents to enjoy. As with anything else, typically we don't require off-site improvements for sidewalks, but those would be traffic improvements if warranted, but due to the Town's TIA policy as well as NCDOT's, a traffic study was not warranted for that.

Commissioner Kidwell said just because it's not warranted, that is something we can ask for in the final.

Mr. Richards said I would defer to Ms. Sloop about asking for off-site improvements that aren't required as part of the TIA.

Commissioner Kidwell said is that something we should ask, not we would ask.

Mr. Richards said that would be up for you to ask of the applicant to see if they would be willing to do that.

Commissioner Kidwell said I think it would not be beneficial to anybody to move into these apartments who may or may not have 1-1/2 cars to try to access the amenities of a local shopping center and then walking out there could be very dangerous. Are there elevators?

Mr. Richards said I will defer to the applicant on that.

Commissioner Munger said I know in years past we've approved a number of the over 55 communities. Do you have an approximate count of the number of units that are coming to Huntersville that are 55 over specific?

Mr. Richards said that is a fantastic question. I thought about that at dinner. I have not had a chance to look that up, but I will get you that answer

Commissioner Munger said on this particular property, the location that I believe is south and west in that little "L" portion, that fill in portion.....that happens to be a commercial CD property. Do we have any concerns about having that connectivity from a commercial property into this particular development?

Mr. Richards said no, the applicant has been kind enough to reserve right-of-way for a public street through these properties that would connect over to Oak Grove Hill. Because this is a one building and one lot situation, not a subdivision, we could not require that, but they are going to offer that to us as one of their offerings as part of the Conditional rezoning.

Commissioner Munger said I know around this particular portion of town a lot of times we have to deal with critical watershed. Is that the situation here or do we have any concerns about the amount of impervious area?

Mr. Richards said geographically they have hit the lottery. They are out of the critical watershed.

Commissioner Partee said the home that is on the property right now, is that home being considered as an historical landmark. Are they going to remove that house?

Mr. Richards said we reached out to the Historic Society and they do not have interest at this time to move forward in giving historic status to that property.

Mayor Bales said we will move on to the applicant, if the applicant would like to join us to speak.

Mr. Richards said we have Cindy Reid with Irvin Law Group.

Cindy Reid, Irvin Law Firm, said thank you for having this public hearing tonight and we are excited about this project because it is an affordable project. It's available to seniors who generally make less than 80 percent of the area median income. We are the land use attorney. Other folks on this call are the Mosaic Non-profit Affordable Housing Group and Jimmy Royster and Kathy Stilwell join us from that group. We also have Andy Breit from Cole Jenest and Stone, the engineer on the project. And I think the architect may be on the line, too, but I'm not sure about that.

What I would like to do is to turn this over to Jimmy or Kathy so that they can tell you about Mosaic's background. They've been around for 50 years and have done multiple developments all over North Carolina.

Jimmy Royster, Mosaic Development Group, presented PowerPoint. *PowerPoint attached hereto as Exhibit No. 4.*

Mosaic Development Group is a 55 year old Charlotte-based non-profit. We work statewide providing high quality housing across the state. We have over 25 properties and over 1,200 units. Some of our properties are specifically for folks with disabilities, some are for families and some are for seniors. Tonight we are here to talk about a senior property. It's our mission and commitment to be a good partner with our communities. We have a long track record. We work in our communities. You are only able to do that if you deliver on what you commit to in what you are looking to build. We have an organizational structure and track record to do that.

We work with non-profits. We work with Catholic Diocese of Charlotte for a senior property. In Mooresville we have worked with Wesley CDC which is affiliated with the Methodist Church that's Huntersville based. We've worked with Western Carolina Community Action. We just finished up some hurricane relief work in the City of New Bern. We work with some of the largest financial institutions in the country and in the world to be able to make these properties work – Bank of America, Truist, JP Morgan Chase. RBC are our financial partners to make sure the properties are serving the community and remain as asset.

These next two slides here are just some of our senior properties and what it is we are trying to do. To us, street appeal is important and community is important. The property on the left, this is our Cherry

Gardens project. We can be in downtown Charlotte within 5 minutes from this property. Other properties from Mocksville and Mooresville. Having community spaces, having spaces that have designated handicapped units, but also all of our senior units being universal design so that folks can age in place. The reality is a lot of the older homes that folks live in don't have the grab bars, don't have the access that folks need to continue independent living. We have this built-in to our apartments and into our designs. Earlier there was a question regarding elevators. There will be a minimum of two elevators in this building.

Working on having community spaces, there's questions regarding parking and how folks have access. We work with local churches and community groups to be able to help with transit for folks to be able to get to their services. Brian had earlier showed the survey that we had of our existing properties. Over half of our properties are for seniors and this is the reality in terms of the age that we serve is just not a lot of folks have cars, but we're able to partner with folks to be able to allow them to continue to thrive and be successful.

The next couple of slides Brian has already covered and I won't read to you your own plans for the Town, but we picked this area purposely both for consistency with the plan and then what is there in the community. The site's proximity with CVS, the Family Dollar and Food Lion, we think is ideal where it gives seniors an opportunity to live in a place that is quiet, with also access to amenities. We also like that it's close to Latta. That is a draw for seniors to remain active in the area. We think this is a good mix and a lot of our properties end up being in the buffer between some of the commercial uses and the change that is coming to this area with the Long Creek retail and the single-family that is being built behind. This is a very typical site for us. While we are here in Charlotte, we also do a lot of rural projects, smaller communities. This is pretty typical for this product type.

This is a little bit more detail about the development and what we are looking to do. We are currently proposing 123 units for seniors 55 and up. That is made into the deal that it is 55 and up. There's no exception to that. It's conditional to this plan as is independent living, so there are no nurses on site. If folks have home care or rehab that they need, we allow for that, but it's not a nursing facility.

As stated earlier, universal design is a big part of what we do. We want seniors to be able to thrive, so all units have grab bars, they have call stations for folks to be able to get assistance. We are set up for folks to be able to survive and thrive independently. Like I said, we are local. We are here in Charlotte. We have an asset manager that manages all the property managers, and we don't exit our properties. We stay in them long-term. If there's a problem, if there's a concern, you can find us. It's not somebody out of state that's checked out. These are professionally managed. There is a manager and maintenance staff to make sure that the property not only looks stellar day one, but also year 30.

For the rear of the site looking between us and the new single-family development coming in, there's a buffer of about 250'. In terms of traffic generation, some of the discussion earlier, traffic engineers and the numbers that they utilize that senior housing is one of the lowest generators of traffic and that the seniors tend to travel at off-peak hours because they don't go out in rush hour. I think that kind of goes over a number of different things on the property.

I have a couple more slides. The next one, just in terms of who our residents are, while it's a 55 and up, our average residents are typically 71. Eighty percent of them are women and 88 percent of them live alone is what we typically see. We've already gone through the elevations. We can discuss those further if you want. I also have additional slides of properties that exist in the area. I'm happy to show those or answer any questions.

Commissioner Boone said what is the average number for first responder call on your properties?

Mr. Royster said I don't know that number. I could ask property management.

Commissioner Boone said that leads into my second question. You say you have professional managers on duty. Will that be 24/7?

Mr. Royster said no, sir. It is 40 hours a week for the manager and maintenance staff. They have an emergency call number for folks for after hours.

Commissioner Boone said who monitors that emergency call number – 911 or a call center?

Mr. Royster said for maintenance emergencies that gets called to the maintenance staff.

Commissioner Boone said the hallways I believe have to have a sprinkler by code. Do the individual apartments have sprinklers?

Mr. Royster said yes, sir.

Commissioner Boone said this is a very congested area about twice a day during school and I have some concern of either a ladder truck or an engine truck turning in off of Beatties Ford Road into the property. Does the fire marshal get involved in the Certificate of Occupancy on this property?

Mr. Royster said in terms of signing off on the final plans and the building once it is constructed?

Mr. Boone said right. I'm concerned about a fire truck getting into the property during the peak of either dropping kids off or picking them up during school.

Mr. Royster said the typically the site plan will show how a fire truck gets in and gets out of the site and also turns around and gets out. In terms of traffic on the public street, I believe that's outside of our typical scope. Perhaps Andy Britt or the Planning Department could speak to that.

Commissioner Boone said where's the closest CATS bus stop?

Mr. Royster said the CATS bus stop is more than a mile.

Commissioner Kidwell said my mother ran a facility very similar to this for 30 plus years and they had pretty tight security to get in and out of the facility to protect the residents. Is this a key carded facility to where the residents will need a keycard to get in and out doors that will be locked, so someone just can't walk in and commit a crime?

Mr. Royster said there will be secured entry into the buildings that will either be a FOB type technology like you mentioned or a keypad that can be updated. There's not individual access into each unit on the first floor, there's controlled access, I believe four or five doors into the building. If it's a FOB technology you will know who's actually accessed into the building each time.

Commissioner Kidwell said is this community a gated community where it's got a dropdown gate where if someone wanted to come in, they would have to have a key fob or enter a code into a gate to lift up a door, have it slide back, or anything like that or do just you drive in?

Mr. Royster said you just drive in. I think that would cause a traffic issue backing up having a slider.

Commissioner Kovacs said I guess you answered one of my questions. I was going to ask about transportation and if there's a shuttle or something, because it might be somewhat treacherous for them to walk to the stores and stuff and you mentioned that there isn't, but you usually will connect with community groups. Have you put any feelers out for that. Do we know the likelihood of that. I just worry about them being able to get somewhere if not everyone has a car.

Mr. Royster said we work with the Catholic Diocese of Charlotte and Wesley's CDC and it is often the members that actually have the property, their church connections, and those types of groups that once we know who's actually living at the residence that we coordinate with and then also the other non-profits in the group in the area to serve the community.

Commissioner Kovacs said do we know what the plans are for the Long Creek Retail. I'm just trying to get a gage on if it would be something that would be beneficial to this development or.....

Mr. Richards said I'll take that. Occasionally we will get interest from a development group. Roughly 6 months ago I talked to someone about reviving that plan and so it would be totally up to the market if someone wants to move forward on that.

Commissioner Kovacs said I think Mr. Richards mentioned that there's going to be a walkway or something on the back of the property. Did you mention that?

Mr. Richards said the applicant is proposing a trail around in the wooded area.

Commissioner Kovacs said so that's an undisturbed buffer, but they will just put in like a natural trail.

Mr. Royster said we are looking at doing a trail from the rear of the building and then there's also fire access to the side of the building that we will connect that up to Beatties Ford Road as well. There will be a loop that residents will have access to.

Commissioner Kovacs said this is 55 and up and it's income restricted and what is our guarantee that it will stay that. I know you are a non-profit, but what is our guarantee it will stay that 55 and up and it will stay income restricted?

Mr. Royster said in the planning process here in the rezoning, we are asking for as a condition of the planning, that this be age restricted. Even if somebody else wanted to come in and utilize this plan, the age restriction is baked into it on the Town's side, so that end is one avenue that it's in. There will be deed restrictions on this property that will both be affordable and be seniors 55 and up. That is at the state level our main financial partner is North Carolina Housing Finance Agency and we have to designate straight out of the gates if we are a family property and no restrictions, or we are age restricted. We are fully in the process of we would be a senior only. One and two bedroom congregate building wouldn't work as family. There's no switching mid-stream here, so both rezoning and the deed restrictions and the requirements of our funders, will remain 55 plus.

Commissioner Kovacs said your funding is tied to that income restriction being upheld?

Mr. Royster said correct.

Commissioner Munger said would you be willing to voluntarily contribute funds to improve sidewalks and/or road related improvements related to the needs of your residents?

Mr. Royster said in terms of just a capital improvement?

Commissioner Munger said yeah, I mean I'm trying to understand there's the possibility of you having residents that would want to cross over to possible future development across the street and/or there would be sidewalks along that they obviously want to make use of. It would be a great benefit to the people who would end up living there and it would be a desired need and we are just trying to balance out the needs in terms of the capital improvement projects we have already and the additional needs that might be directly attributed to the residents of your particular development that they would want. I'm just trying to understand if that's something you would be willing to work with the Town in terms of establishing a fund or something to that effect that would assist with those needs.

Mr. Royster said I can certainly take that back to our team, and also discuss it with the staff in terms of what that would look like. We would be ecstatic if CATS would make a stop at this location. We have had sites where we have put in bus stops. I don't have any power over what CATS does or routes. I don't know how that works, but we are willing to have conversations with the Town.

Commissioner Partee said I'm very impressed with the fact that they have 13 properties already listed in the back and so that gives me confidence that they are very secure in their product. You have 80 percent women and 20 percent men, with 88 percent of the residents living alone. With that, I feel pretty secure that this residence is appropriate for the area. Myself being way above age 55 and still active and driving, I think this is some residences that we really need to have around in Huntersville. I like the idea. I like the way that it's set up.

Commissioner Phillips said you guys work off of the 60 percent median income. I was wondering how you guys update that over time. Is it with census data, is it yearly, are people grandfathered in?

Mr. Royster said the area median income is designated federally and is by the county and is updated yearly. In terms of the income limits, folks are reviewed every year. It's not really something you see in senior properties as much as somebody's income. There is a tolerance that if they met the income requirement on the day they first moved in and then they got a better job, they do encourage that and you see that some at the family properties, there is some tolerance for that to go up. You don't really see that at the senior properties, but that information is reviewed each year.

Commissioner Phillips said and it's case by case?

Mr. Royster said yes, everybody is recertified each year and they provide their income information each year.

Mayor Bales called on Scott Barnette, who had signed up to speak. Mr. Barnette was not able to establish connection to the meeting. Mr. Barnette sent in written comments. *Written comments attached hereto as Exhibit No. 5.*

Mr. Richard said going back to Commissioner Munger's question, we're in the 800-unit ballpark of age restricted units and we will firm that up if that changes significantly.

Commissioner Phillips said I know there's age restricted, but there's also affordable age restricted, and in my last two years the only thing that we have seen to have gotten was the ask out of Caldwell Station and that was 15-20 units.

Mr. Richards said correct.

Commissioner Phillips said can you recall anymore that came with income based age restriction?

Mr. Richards said not to my knowledge, but we'll dig into that as well.

Mr. Richards said Bellamoor at the Park. That was income based, roughly 130-140 units.

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

Petition #R21-14. Petition #R21-14 is a request by Mecklenburg County to amend the conditional district rezoning plan for their recycling facility at 12230 Statesville Road. The property is zoned Special Purpose Conditional District and the purpose of the amendment is to expand the boundaries of the active area of the facility.

Brad Priest, Principal Planner, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as No. 6.*

As was mentioned, R21-14 is the application for a conditional rezoning amendment for the North Mecklenburg Recycling Center. The applicant is Mecklenburg County.

The area in question here is just to the south of the intersection of Highway 21 and Verhoeff. The zoning already is Special Purpose Conditional District, so the modification would keep the zoning the same and just change the conditions of the actual plan itself, so the use would stay the same.

Just getting a feel of where this is and what's around it. You see the property highlighted here. To the north you have the CPCC Commercial Driver's License facility, the practicing and training area. To the east you have the Huntersville Athletic Recreation Center and then to the south you have some area of the Plum Creek neighborhood, single-family residential neighborhood, and then some vacant area to the south here.

Back in 1989 Mecklenburg County got this property rezoned to industrial type use and then that rezoning was revised in 1994. You will see back in the plan it had a condition where it established what was called Active Use Boundaries. Basically, all the activity of the landfill had to be within that active use boundary and it wasn't allowed to go any further. Along with those boundaries, you had 100' buffers to the east, to the north, to the south and of course you had lots of buffer to the south there toward the residential area. That was the existing rezoning plan and that's currently in place right now.

The application is to modify those active use boundaries to expand the operation of the facility a little bit. Essentially the areas that you see in yellow, more or less, are the area of the expansion of the active area and then to the south a little bit, there's an area that's used for miscellaneous storage. That would be on the plan as well.

Again, the current uses remain the same, just a little bit of an expansion of the boundaries that are currently in operation. I want to go through and just highlight some of the site comments and site recommendations that staff had. One of the site comments that we wanted to bring attention to is the applicant, Mecklenburg County, is requesting a modification to the required buffers and setbacks. Article 9.16 requires a 100' setback for the residential recycling facility use. They are requesting it to be reduced down to 80' in certain points. Where it is the 80', that would be to the north adjacent to CPCC here in the red; to the east adjacent to the Huntersville Park; and to the west here adjacent to Highway 21. In red you have the modification. In green, to the south, adjacent to Plum Creek, no modification is required. There's a setback of 420' of buffer and natural area there.

Staff is supportive of these modifications to the buffer. The 80' should be plenty enough to make an opaque screen. In addition to that, they are putting in a opaque privacy fence along this area to add-in screening. The areas of which the modification is requested is against areas of similar uses. Civic use again to the east, commercial civic use CPCC to the north, and then of course the highway. For the residential area, the less intense uses are being protected.

I just wanted to mention that the tree survey that was submitted was somewhat incomplete where staff can't immediately understand and show conformance to the ordinance specifically. Thirty percent of the specimen trees are required to be saved on the site. That includes trees like small trees like dogwoods, cherries or redbuds that are 12" in caliper and above. The issue is there are many trees that you can see on the tree survey, 18" trees, 12" trees. The species is not identified and therefore whether or not it's a specimen cannot be identified. Looking at the site as a whole, there are many specimen trees on the site. It's very wooded. Many of them are being saved, but to ultimately be able to specify here's the number and here's the 30 percent requirement, we can't determine that with the information that's been submitted. If the Town Board desires to have that specific number, we would need to get an updated tree survey to have that information.

Verhoeff Drive Connection. Back in 2017 CPCC, the Town and the county got together and discussed the future development of the uses of the corner of 21 and Verhoeff. It was agreed that it would be very beneficial to not have direct access long-term to 21, but to have access to these facilities from the back, from Verhoeff Drive, considering some of the stacking issues that were taking place on 21, but then also the future of 21 being a divided highway and access potentially being restricted.

When CPCC developed the corner, they went and did their part by putting in some infrastructure in the back that was built to public street standards with the anticipation that the truck facility and in the future this facility here, the recycling facility, would use it as access. In the expansion plan, the initial connection here from the county is no longer on the plan. The county has determined, we understand, that specifically that the logistics and the flow of the development right now is such that it's better to just have access on 21. Staff just wants to make that a comment and have that as a recommendation that it would be beneficial in the future.

The Huntersville Gateway Plan, the 2020 Huntersville Bike Plan, calls for the area in question to have a Town greenway coming through the property. If you see here, there's a greenway plan to come up north through one of the streams and then going to the east to the Huntersville Athletic Park. You see here in the top right that greenway in green is shown here in that area. Staff would recommend that Town greenway be accommodated for either with easements or some type of reservation or at the least perhaps maybe even a note on the plan in a general sense saying that the county would agree to work with the Town to establish those greenways when they are eventually designed.

Another specific aspect about this plan, the Plum Creek neighborhood has been very active in voicing some concerns in the past about potential nuisances from the facility – noise, lights and smells and those types of things. The county has been working diligently to address those concerns and had a second neighborhood meeting with the neighborhood and had a good discussion about those things. The site plan actually does incorporate some of the tools that were used in an effort to accommodate some of those concerns. You will see here to the south of the property, a proposed noise abatement berm and a noise wall is proposed just to the south and in between the proposed expansion and the residential there to the south.

Staff recommends approval of the application. Again, it's consistent with the 2040 Huntersville Plan. There's not really a change of intensity per say, but it's just taking the existing use that was approved and in operation since the late 80's, modifying it, and expanding it to a certain degree, so staff recommends approval of the application.

I know several staff members from Mecklenburg County are here to speak as well on the application.

Commissioner Boone said did anybody check on the stonefly?

Mr. Priest said we did check on the stonefly when the application originally came in and we did get word back from the county that the development on this site would not affect the stonefly and the adjacent property. The drainage of the area would not have an impact on it.

Commissioner Kidwell said thank you for the excellent presentation. You addressed one of the concerns I had and that was the stacking on 21 right there, especially on Saturdays. I know there's a police officer out there trying to help direct individuals in and out of that facility, so potential connection to another road one way in, one way out, would be very beneficial to the facility and the future roadway there.

Commissioner Kovacs said I saw that the proposed buffer between the neighborhood and the facility would be 420'. What is the current buffer?

Mr. Priest said I don't recall exactly what it is, but 400' plus whatever this distance is here, so probably another 150' I would say in that area. It's being reduced down to no less than the 420'.

Commissioner Munger said will the applicant be making any sort of presentation and/or do we get to ask questions of the applicant after?

Mayor Bales said that was my intention. Mr. Priest, the applicant is with us, correct.

Mr. Priest said I cannot see all the participants. They were planning to come, several Mecklenburg County staff members, and they sent me a PowerPoint, so my assumption is yes they are here with us.

Commissioner Munger said on the tree save, I do understand what you are saying about the specimen trees not being specified. According to the ordinance with the 30 percent specimen tree, hypothetically if we said every single tree there is a specimen tree, would they be in compliance with the 30 percent?

Mr. Priest said there's ways that you could come up with a worst-case scenario where you would try to accommodate it the best you can without surveying and having the species of each of them. I think if you are dealing with a percentage, number one to have accuracy you have to understand how many

specimens there are in total. However, if they counted the smaller trees that were removed as specimens but in the ones that they save the small trees were not counted as specimen and not saved, then you would have potentially the worst-case scenario where you are not calling small specimen trees that are saved specimens when they may not be, but you are counting them as specimen trees when you are removing them. If you updated the calculation that way, it would be better, but it's not possible to have complete accuracy unless you have all the specimens identified.

Commissioner Munger said that's a great way of explaining it and it makes perfect sense to me.

Commissioner Partee said will we be receiving an updated tree survey?

Mr. Priest said staff has commented on the plan and requested it. We haven't gotten that back at this time. Again, just from the tree survey it looks like it's very likely that they are conforming, but I don't know if the applicants are proposing to update that or not.

Commissioner Partee said also, with the Plum Creek community, are they receptive to the proposed buffers of the noise abatement?

Mr. Priest said we had an updated neighborhood meeting, the applicants did with them. There seemed to be some positive response from that and the summary and the questions and the discussion from that meeting was included in your agenda packet and I think there was some positive discussion. I have not received any complaints or feedback from the neighborhood personally by email or phone since the application has come back up, so I interpret that as some positive feedback.

Commissioner Partee said just one other question about the odor. Has that been rectified and corrected? It was mentioned that there was an odor that was coming from the dump.

Mr. Priest said I would probably let Mecklenburg County get into that. There was some discussion about potential changes to the site in regard to the mixing and where the mixing of the mulch and so forth would take place, the hours of it, and then some mitigation techniques that they use in other parts of the county, taking place on this site, but that was a discussion that hasn't been incorporated into the plan. I do not know if that's the case yet or not.

Commissioner Phillips said when was Plum Creek built?

Mr. Priest said that is a great question. I want to say mid 90's. Perhaps someone else on staff who has some better knowledge of residential could chime in on that, but I'm wanting to say mid 90's.

Commissioner Phillips said I'm long-term thinking that the center came before the neighborhood.

Mr. Priest said I'd be happy to research that after this meeting and get back to you.

John Carmichael said I'm working with Mecklenburg County on this rezoning petition and with me tonight are Jeff Smithberger, Director of Mecklenburg County Solid Waste Management, Joe Hack of Mecklenburg County Solid Waste Management and Matt Edwards of Kimley Horne and Associates. They are supposed to be with me and I'm very hopeful that they are.

Mr. Carmichael said as Mr. Priest indicated pursuant to this application, the county is requesting an amendment to the conditional rezoning plan for its facility located at 12230 Statesville Road to

accommodate an expansion of the boundaries of the active use area on the site. The site is a little over 25 acres and it's zoned Special Purpose Conditional District and that's an aerial photograph of the site. I'm going to turn it over to Mr. Smithberger now and let him walk you through some of the finer points of the presentation.

Jeff Smithberger, said I am your director of Solid Waste for Mecklenburg County. Our Solid Waste Division is part of the Land Use and Environmental Services Agency called LUESA. I'm here to talk to you tonight about the expansion of our North Meck Center facility. *PowerPoint attached hereto as Exhibit No. 7.* The Center has operated for the past 30 years and it's quite frankly now time to upgrade to better accommodate our customer needs as well as working toward increasing material separation and overall waste reduction that we need for the facility. We've had this expansion plan for the last couple of years. We may differ a little bit about the decision to use or not use the other road at Verhoeff, but quite frankly the property where that other road would come in is controlled by both CPCC and the athletic folks and it is not controlled by Mecklenburg County. We've had some difficulties working through that part. We've committed to place a stub out to connect to a future road, but we also heard loud and clear from our very first meeting that we had with the nice folks at Plum Creek that you really didn't want that road to exist to come back through there, which is another one of the reasons why we have concentrated on putting turn lanes in to the opening of our facility off of Statesville Road. I know there was some discussion here earlier tonight about traffic backing up, but we have made interior modifications to our traffic plans. We've installed what's called an express lane for people that don't have to pass crossing our scales or our weighing sites and so those people come in and use our facilities. I'll call it sort of unrestricted and so we have not had any back-ups onto Statesville Road in the past two years. And incidentally during the pandemic we saw about a 20 percent increase in use of this Statesville Road facility from the good folks in the Huntersville area because as they were staying home, they were also cleaning up more things and bringing more things to our facility. One of the questions I'm sure you will ask is about why do we want to expand this full service center. I heard one person refer to it tonight as the dump. I can assure you it's anything but a dump. Nothing stays at this facility. Everything gets transported back off of it at some point in time by someone who's either reusing it or recycling it.

We have a three-phase development plan. Phase 1 has already been constructed. We added a new office facility to this property within the existing use boundary. We opened it in April 2021 and it gave our workers at the site access to facilities that are accommodated or necessary for the Americans with Disabilities Act, as well as providing more modern facilities for training of our staff. Phase 2 as you see here sort of in the aqua color, will be the installation of a canopy that will house infrastructure under it where residents will come and recycle many things. It also allows us to keep those things out of the inclement weather. Behind that immediately you will also see where we've talked about the noise wall and the berm. We are planting and committed to plant hundreds of evergreen trees back here behind this to screen ourselves from the neighborhood because one of the things that you will find is that we are Mecklenburg County and we are answerable to both you as a Board as well as my board of county commissioners, as well as all county residents, so we pledge to be the best community stewards that we can possibly be.

We have shown a rendering that shows the site line between us and the neighboring folks at Plum Creek. The berm that you see is going to be earthen on the backside which is what residents or anyone across from us would see and then on the front side it would be comprised of concrete as a retaining wall. That is meant to reflect sound back away from any residents that we have. Along that we have also talked about installing an odor control system, which is similar to the one that we installed at our 60-acre compost central facility, which is down around Valleydale Road more in the central portion of

the City of Charlotte. We had similar odor complaints there from people that don't like the smell of the wood processing that we do. We are not burying anything on site nor are we adding any chemicals to it, it's just the natural earthy smell of wood and leaves as they come in, get ground and then get hauled away.

Next slide which is the south section site line. It looks very similar. It shows what it would look like to someone that is in the neighboring area of Plum Creek looking across the valley where the existing topography has the creek down in the valley and then our facility. Notice we have a top of a shed which will also work to serve to reduce the noise that we have in capturing and funneling noise back down towards the noise wall.

This is a picture of the office building. It is a facility that houses the maintenance and supervisory staff that we have. It also has small lunchroom and washroom facilities for our employees that we have out there. Before we constructed this facility, we only had one flushing toilet on the entire site and the majority of our staff had to use port-a-johns and port-a-potties and so we have now upgraded to something that is much more modern than any of the infrastructure that we had before.

This slide shows what our Compost Central facility looks like and this is what the canopy will be at this facility. All of our facilities are going to have a very similar type design. We are also constructing another new facility down in the Steele Creek area of Charlotte and it will also use a similar canopy. We have found that these are very flexible, allow us to store and move materials under them while keeping things out of the weather. They will also have compactor units in the front, similar to what these compactor units are where residents can come and recycle cardboard and similar items. The bagged waste would go into those cans as well as recyclable materials.

This slide shows a bit of a close-up of what happens under there. For example, our staff collects televisions for recycling. TV's are not allowed to be thrown away in landfills in the great state of North Carolina so we have to recycle them. Our staff has to stack them on pallets, wrap them in plastic shrink wrap, keep them out of the weather and those get hauled away for proper recycling.

One of the enhancements that we will want to do at this facility up at North Meck is add the same things that we are adding to our other facilities. Things like book recycling and Styrofoam recycling. All of those type of activities will occur underneath the covered shed that we have. The wall would then be immediately behind that with the noise berm shielding us from noise to the local community.

This is part of a larger future capital improvements plan that Mecklenburg County Solid Waste has for entire Mecklenburg County. We are adding about 60 plus million dollars of infrastructure to plan for growth in our community over the next five to six years. This includes additional facilities, expansions of facilities like this one here that we are meeting to talk about tonight, but it also includes other facilities that are outside of the Town of Huntersville.

If approval is granted by the Town of Huntersville for this, we will start to develop the detailed design drawings that we need for this, working with NCDOT and roadway enhancements and turn lanes. We have committed to add sidewalks in front of our facility that will align with other sidewalks that are already there by the CPCC facility and for future needs. We expect this to probably take about 2 years to complete all phases of our projects.

I want to pat ourselves on the back a little bit and let you know that we do want to be good neighbors. Mecklenburg County Solid Waste, we are the only solid waste organization in the entire state of North

Carolina to have an Environmental Management System with state approval. What an Environmental Management System means to us is that we constantly review the things that we are doing to be good stewards to the environment. We have annual external audits to review this environmental compliance and stewardship and we are proud of our record of being able to continually exceed all permit requirements.

If you or others want to get in touch with us, we are here to answer questions both tonight and then if anyone has questions, they can write in afterwards. We have a general solid waste email. We also have our robust Wipeout Waste website where we talk a lot about recycling and waste reduction here in Mecklenburg County.

I will conclude my remarks tonight, but I would like to thank my project team. We are behind in doing this project partly because of COVID. Brad was right, we met back in 2017 to talk about this project and it's now 2022. We are long overdue and need to expand this facility in order to accommodate the growing needs of our community.

Mayor Bales said thank you. Does anyone have any questions for the petitioner.

Commissioner Boone said in speaking with neighbors, they say the smell is still an issue when you start grinding these leaves and things, it goes over to Toka Court and that whole Plum Creek neighborhood. But it was brought to my attention that you have two different types of grinders and it seems like the lower speed grinder is the quietest. Is that the one that you are going to be putting in there.

Mr. Smithberger said Mecklenburg County has seven grinders right now and we have what's called a slow speed as you are aware and we have a higher speed. The good news is that the slow speed is quieter. The bad news is, it will not grind everything that comes into our facilities. It grinds the smaller materials, but it won't grind the larger materials. At this time our commitment is that we will use the slow speed to the maximum extent that we can, but there will be sometimes that we have to mobilize and bring in our larger, higher speed grinder to grind up some of the larger pieces of wood and material that we get. That will be probably 30 percent of the time. We also believe that constructing the noise wall, which isn't there now, will meliorate 90 percent of any noise that they hear. They will have to build that. You have our commitment that we will continue to work with you and the community on that, but it's to my advantage to be the best neighbor to this community that we can possibly be. We will structure our operations to be the best that we can be, but there will be sometimes that we may be heard when we do grinding. Our hours of operation are 7 a.m. to 4 p.m. We never grind before 7 a.m. We never grind after 4 p.m. The only time that would occur is if we reached a state of emergency here in Mecklenburg County – ice storms, hurricanes, tornadoes, whatever. This facility is designed to be able to help your community recover from that type of disaster. We realize that normal daily operations are different from times of emergency, but our equipment and our systems are geared for that type of emergency situation for all of our communities.

Commissioner Boone said you said the start time is 7 a.m., but some of the residents say that it's as early as 6:30 p.m., 6:15 a.m. your folks are getting ready for the day's work and backing trucks up and we all know the sounds that they make and if you could be a little more respectful of their time, I would appreciate that. My final question comes from 2017 when the Verhoeff Road cut-through through the CPCC property was discussed. Is that road, if it does go through, will it go all the way over to Chickasaw Drive in Plum Creek, because there's a stub there at Chickasaw.

Mr. Smithberger said that would not be a decision for my group. That would be Town of Huntersville decision.

Mr. Priest said there's no official plan to make the connection at Chickasaw. The recommendation from staff at this time was only concerning the non-residential development from CPCC to the Recycling Center.

Commissioner Munger said my question is related to the staff recommendation. What I read there, there are three recommendations from our staff and I'm just wanting to get some clarification on some of it. The first one is probably going to be the most difficult. Adding a rear connection to Verhoeff Drive and one of the things that you had mentioned is it's somewhat difficult in dealing with CPCC and acquiring the land around Huntersville Athletic Park. Did I understand that correctly?

Mr. Smithberger said yes, sir. Mecklenburg County does not own that property.

Commissioner Munger said it doesn't?

Mr. Smithberger said no, sir.

Commissioner Munger said when I'm looking at it, and I'm using POLARIS as my point of reference, and it does say Chronic Disease Mecklenburg County, are you familiar with that entity?

Mr. Smithberger said I am not.

Commissioner Munger said that's something I'll have to get back to then, because my understanding and Brad or Jack, if one of you could tell me, it was an understanding with CPCC when they built that facility that we would be able to acquire or use that land to build this potential connection. Am I stating that correctly?

Mr. Priest said it was a discussion of the county and I'll have to understand exactly who owns the Huntersville Park property, but I believe there's a county entity that does control the park. What I do know specifically is that CPCC platted a public access easement through their property along the driveway that they built to the southern property line where the Parks & Recreation property line comes. The idea was at some point Mecklenburg County having the ability to work on that park property to make the connection to that easement that was established by CPCC.

Commissioner Munger said as far as we can tell it's a matter of Mecklenburg County needs to talk to Mecklenburg County about being able to acquire that land and use it for a road.

Mr. Priest said we believe so. That was the understanding.

Mr. Smithberger said I'd also like to add that when we at Solid Waste discussed it, we never talked about this in terms of this being the entrance to our facility. We were very clear about that. The Town of Huntersville when we talked to Mr. Priest made it very clear that they did want it to be more of an entrance to your facility. At the time we were not talking about doing any increases in width or turning lanes to Statesville Road. We now have gone back and looked at it and believe it's much more beneficial at this time to put those turn lanes into Statesville Road and continue to work with NCDOT as they continue to plan the expansion of that road for that to continue to be our main entrance and exit from the site. We have said that at any time that a road is built or can come through we would consider

having an emergency egress/ingress at that site, but it wrecks the flow of traffic through our site having that to become an ingress point.

Commissioner Munger said just one more comment on it, one of the other things I had heard stated was that the residents of Plum Creek were not in favor of that extension occurring. When I looked at the map, one of the things that I noticed is the stub to the potential Verhoeff was set back quite a bit from the actual edge of your property. If I had to guesstimate it would probably be about 650' away from Plum Creek itself, which is about 1/8 mile. Does that feel accurate?

Mr. Smithberger said I'd have to look at a map with you to see exactly where you are referencing. Are you talking about the edge of our property to them or.....

Commissioner Munger said the stub itself.

Mr. Smithberger said one of the other concerns that we had about the stub, frequently in other places in Mecklenburg County, stubs like that become a haven for unwanted activity and illegal dumping and we were also not in favor of putting the stub in there for that purpose.

Commissioner Munger said it is all your property, so I would assume that you would want to make sure that nothing like that happened on property owned by you.

Mr. Smithberger said again, it makes it very difficult to enforce that. We would have to lean back towards the Town of Huntersville Police Department to try to assist with any enforcement of illegal dumping that occurred there after hours. It's just another difficulty that.....it was not something that we believed in terms needs to be done. We do not have any back-up problems on Statesville Road at all. We haven't had any for the last two years.

Commissioner Munger said at present time. We do have a lot of growth coming.

Mr. Smithberger said as I have said and committed to is if the road ever gets built and finished through there, we have no problem in hooking to it. But one of the things that was a sticking point between us and CPCC is who takes care of the maintenance of that road. Who takes care of the snow removal of that road. If there's an accident, where does the liability fall. We have stumbled in being able to work out the details of perfecting a lease agreement with them to use this for access purposes because of those types of things and others.

Commissioner Munger said hypothetically that road is built in and it runs from Verhoeff all the way to their property. At what point would it be ceded over to the Town and become the Town's responsibility.

Mr. Priest said it could be done rather fast if it's built to public street standards as CPCC did. They would petition for it to be inspected and just go through the process to be taken over by the Town as a public street.

Commissioner Munger said are things like maintenance, snow removal.....we take care of that?

Mr. Priest said it would be after it's given to the Town. For the county's benefit I would echo the sentiment that at the time when CPCC came in to construct the driveway, they didn't want to go through the process at that time to do a public street, because it was going through the process would

have been time intensive, so they said let's do the easement for right now and then the public street can come later once it's connected afterwards. That was my understanding of the connection timing at that time. But to your point, yes, if it was given to the Town as a public street, then maintenance would not be an issue there later on.

Commissioner Munger said my understanding right now is we have a tree survey that says 12" tree as opposed to 12" oak or 12" cherry. Do you have plans on updating the tree survey?

Mr. Smithberger said yes.

Commissioner Munger said provide 30' easements along applicable stream sections for future Huntersville greenways through the property or adding a note stating that the county commits to work with the Town to locate the trails on property once designed. Is that something you'd find agreeable?

Mr. Smithberger said generally, yes.

Commissioner Munger said any comment you want to add to that, just so I understand the generally.

Mr. Smithberger said we work closely with our Park and Rec group as well and as I understand it this particular alignment does not align with what is on the county plan and so apparently there is a difference between a county plan and a Town of Huntersville plan. We want to try to keep everybody happy but one of the problems is that if you put a specific delineation at this particular point in time, it sort of kind of locks it down and so if you put a generic description of we will work together to mutually agree upon where said trail would be, that kind of thing we have no problem with.

Commissioner Munger said Brad, to me that sounds reasonable. Does that sound reasonable to you as well.

Mr. Priest said yes, absolutely. That was part of the recommendation as well, a general commitment to work together to make it happen and that's fine.

Mr. Smithberger said I just want to point out to this group tonight, that trail would run through the buffer area between us and the homes and so I heard from some of the folks that live in Plum Creek that said that they were ambivalent about having a trail with strangers walking through it behind their homes, so that may be a discussion for another time and another place, but while many people like greenways, when it ends up being behind your house sometimes you might not like it.

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

OTHER BUSINESS

Petition #R21-10. Petition #R21-10 is a conditional rezoning application by ADE 883, LLC to rezone 10401 Hambright Road (Parcel # 01740103) from Corporate Business to Corporate Business Conditional District. The purpose of the rezoning is to reduce the planting requirements of the 40' CB buffer. The property is located east of the intersection of Patterson Road and Hambright Road.

Commissioner Boone said I requested this, along with Commissioner Phillips, to be brought back onto the agenda for tonight's meeting. Before I get started, I would just like to know if staff wants to put their report into the record at this time or after my presentation.

Brad Priest, Principal Planner, said what I'll do is I'll wait for you for your opening remarks and then afterwards I'll take care of the slides and do it all at the same time.

Commissioner Boone said I would like to start with the history on this Hambright/Patterson Road area. Back on January 16, 2018, the Town made a major investment of \$1.6 million to improve the entrance to Patterson Road and Hambright Road with road improvements, water improvements and gutter improvements and just basically reading from the minutes from that meeting, the economic development incentive was presented by Gerry Vincent, the Town Manager and he explained the request is related to a new manufacturing facility that has not been announced or its location. This is not a tax incentive plan but an infrastructure incentive plan at \$1.6 million for road improvements. It is to align an existing road as well as land acquisition of sidewalk improvements, also water line extension. The motion was made. It passed 4 to 2. The Town has invested money and at that point I will let you do your report.

Mr. Priest said I'll go ahead and put the Staff Report into the record at this time. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 8.* This is essentially a reconsideration of NorthChase at the Park R21-10. The site is here on the north side of Hambright Road near the intersection of Patterson Road and Hambright. On the 18th the rezoning application was denied or not approved to reduce the planting requirements required in the ordinance. This was the landscaping plan that you see in front of you where the applicant was proposing view corridors to be able to not have an opaque buffer but to have a buffer that was only opaque in sections in order to allow visibility to the architectural elements of the nice building that they were going to put in. But that application did not pass on the 18th, so the applicant sent in a new landscaping plan that you see here in front of you. The darker bluish-green dots are the existing evergreen trees that they are pointing out. The light green dots that you see are new evergreen trees that are proposed here and so with this new landscaping plan the numbers were updated. Staff updated the numbers, so you see on the lefthand side what's required by ordinance, the plan that was disapproved here in the middle, and then the updated landscaping numbers here on the right. They increased their evergreen trees by 18. They reduced their large maturing trees a bit and the shrubs of course are the same.

Commissioner Kidwell said a couple of points of clarification, so what Mr. Priest just showed is not in our packet. I'm looking through my packet here, I don't see the updated planting requirements. The page in my packet still has the November 22, 2021 information, so I kind of feel like we weren't given everything. A couple of other things I just want to kind of go over here. When I talked to a couple of commissioners about this property, they were like if we don't approve this, they are just going to build it right up on the road like Lake Norman Charter Elementary School did. Do we want that in that area. I went out and measured how far Lake Norman Charter Elementary School is from the side of the road. It's 75' from the edge of the road and we are talking about making this 40', so it would be half the distance. I don't know if anyone else went out and measured it, but I thought I would because why not do our due diligence. Also, if they were to put this 40' off the road with a parking lot stated here, I don't see this as an improvement to the area, it doesn't mesh with the area, but also this is about needs and wants. The applicant wants to put up pretty signs for a business to come in, but I'll tell you the business is going to be more concerned about if they can get their trucks, their 18 wheelers in the back unloading docks and how many parking spaces they've got up top to get their people in and their customers to come see their facility. I've been looking at facilities for going on 6 months now for my current company and I'll tell you, it's been more about access than where we can put a sign up so people can see, because every one of these doors is going to have the address dash a, b, c or d, depending on who rents out and how much square footage they rent out. It's going to be less about putting up their sign and more about

what they can do inside the facility to pay the \$550 to \$750 a square foot rent that it's going to cost. I'm not a fan of granting the applicant approval, as I wasn't prior. I think we're talking about a facility that's ¾ mile from Patterson Road, so it's not next to Patterson Road, it's not even 500' away. It's ¾ mile from a road that the Town did invest over \$1 million in to get a company down here. That road I don't even believe connects to the current business park. I think it stubs out right past that company, or at least it did about a year ago when I drove it. We've got to look around what's in the area and we've got horse farms right across the street. We've got more rural housing out there and due to the watershed issues, we are not going to see anything like this pop up across the street or further development down that way. I am not in favor as I wasn't on the 18th, the last time we heard this and that's kind of where I'm standing.

Commissioner Kovacs said with what Commissioner Kidwell mentioned how Lake Norman Charter Elementary is, I think he said 75' off from the road. If this were to be built with the same set up, is that the minimum distance that it would have to be off the road, the 75'.

Mr. Priest said it would be similar. I would have to go back to look at where the school actually is because I'm not exactly sure. I can look that information up. It would be similar. That's correct, because of future right-of-way and build to line from future right-of-way it would be back there.

Commissioner Kovacs said as it sits right here on this screen, what would be the distance from the road to the actual building.

Mr. Priest said I'd say maybe 125' give or take in this position right here that we are looking at.

Commissioner Kovacs said I wasn't in favor of this on the 18th and I am very much appreciative of the additional trees being added and their willingness to do that, but I'm still not comfortable with the buffer more so because it was 80' and it recently has been reduced to 40', but we are still having to look at decreasing something that we recently just did and I worry about setting a precedent where we don't follow our own ordinances that we recently modified. That's just kind of where I'm at on this.

Commissioner Munger said I just had a general comment. Obviously the first time through I voted against this and when I did hear that it was coming back, I was concerned that it would be the exact same thing coming back. But looking at this and seeing that the evergreens have been added, the opaqueness has been enhanced, for me what it does is it indicates that we are working more in spirit with the actual ordinance in trying to make it so that we have a nice opaque buffer and having the evergreens there that will block it out, definitely makes it more appealing to me and I think to Commissioner Boone's point, when we did pass the resolution or what have you, to make Patterson Road more appealing to enhance that area to make it more inviting to light industrial. This is what we were trying to get. This is the type of businesses we're trying to get. I often have said I hate the idea of Huntersville being referred to as a bedroom community. We are not a bedroom community. This is an area where we should be able to work, live, play and eat. I want to be able to do all of those things in Huntersville. We should not be dependent upon we just live here, we go to Charlotte and work, eat and do all those things, then we just come home and stay in our houses. We need to be able to be a thriving community with a wide variety of options for everything that anyone needs to be able to do and I think this takes us closer to that point, so I will say that I'm in favor of this new proposal.

Commissioner Partee said I made the motion last month to approve this resolution and I spoke to Commissioner Boone and are in agreement with this project.

Commissioner Phillips said I think it's important because my name is beside Dan's on this, that I was against it previously, however I really do appreciate that the applicant took our concerns and actually materialized something with that. I am not used to seeing that out of people and I thought that was very promising. I also want to note that we do like to brag on ourselves as somewhere you would work, live, play, much to like what Commissioner Munger said, however we need to be mindful of making sure that we are bringing jobs to our community and while I have said no to a lot of things, I am honored to say yes to this and I appreciate Commissioner Boone for leading the way on this and for getting the citizens more than they were offered and I appreciate the applicant for being empathetic and for listening.

Commissioner Boone made a motion in considering the proposed rezoning Petition R21-10, North Chase at the Park, the Town Board recommends approval. The Town Board is aware of and consider the Planning Board's recommendation and all relevant portions of a 2040 Community Plan including policies LU-1.1, 5.1, 7.1, 11.1 and 11.2., the Town Board finds modifications of the buffer requirements reasonable considering the increase in architectural standards as modeled on the rendering as provided to the staff report. The submitted elevations are attached as conditions to the approval and are critical part of the rationale for granting the modification of the buffer requirements and approving the rezoning. The proposed building type provides employee and customer parking in the front and requires rear load docks. The Town Board has considered the parking visibility in our discussion and as a condition of approval requires 100 percent screening of all automobiles on the street side by shrubs and trees with a minimum of 7' to 8' for tree height that mature in a period of three years. This will meet the intent of the cars not being visible from the street. It is reasonable and in the public interest to approve the rezoning so that we can find an adequate compromise between the save tree requirements, aesthetics of the building and the spirit of the ordinance regarding what should and should not be visible.

Commissioner Phillips seconded motion.

Commissioner Kidwell said as I look through the packet that we received, just so Commissioner Boone is aware, the road improvements are still not set up, the planting that was just presented to us was not presented to this Board in this packet. There seems to be a lot of information missing from the packet for us to make a decision. I would encourage the Board to vote against this. And as I told Commissioner Boone, and I'll tell all my fellow board members, I have no problem with anybody from this Board ever bringing something back for discussion and I think that's a great thing. It's a great part of our process, but we are bringing something back and about to potentially approve it that, let's be honest, warehousing, light industrial doesn't need a big sign on the front, they just need to have the space and we are missing a lot of improvements that staff has asked for in this packet that the application and developer has not presented.

Mayor Bales called for a roll call vote to approve Petition #R21-10.

Commissioner Boone – Approve
Commissioner Kidwell – Deny
Commissioner Kovacs – Deny
Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

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

Interlocal Agreement – Cabarrus County. This item is an interlocal agreement, similar to the one we have with Mecklenburg County, for the collection of taxes for Huntersville parcels in Cabarrus County. The Town will compensate Cabarrus County a fixed rate of \$2.00 for each Town bill generated by the County. The recently approved R21-03 Skybrook Billings rezoning will add approximately 19 parcels to the Town within Cabarrus County. Cabarrus County commissioners will be voting on this interlocal this month.

Commissioner Munger made a motion to adopt an interlocal tax collection agreement between the Town of Huntersville and Cabarrus County.

Commissioner Phillips seconded motion.

Mayor Bales called for a roll call vote.

Commissioner Boone – Approve
Commissioner Kidwell – Approve
Commissioner Kovacs – Approve
Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

Motion carried unanimously.

Agreement attached hereto as Exhibit No. 9.

Resolution Not to Bill or Collect Minimal Taxes. This resolution states the Town's desire for the Tax Administrator of Cabarrus County not to collect taxes for which the cost of collection exceeds the amount collected.

Commissioner Kidwell said do we look at the net on that. Let's say you've got some that are negative or \$5 or \$1 or whatever and it adds up to let's say \$50,000 total, is that something they look at when they decide this.

Bobby Williams, Assistant Town Manager, said I'm going to defer to Jackie on that. I believe it's just individual bills. Right now we are only talking about 19 parcels, so that will vary.

Jackie Huffman, Deputy Town Manager, said my understanding is the individual bill. If one taxpayer owes 1,000 bills, they don't accumulate them, it's on an individual parcel.

Commissioner Munger made a motion to adopt Resolution not to bill or collect minimal taxes.

Commissioner Phillips seconded motion.

Mayor Bales called for a roll call vote to adopt Resolution.

Commissioner Boone – Approve
Commissioner Kidwell – Approve
Commissioner Kovacs – Approve

Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 10.

Resolution – Declare Surplus Equipment. Staff requests the Board declare the existing 30/40/50 MVA transformer at the Town's delivery #3 substation as surplus and allow bids to be obtained to sell the transformer to the highest bidder.

Commissioner Kidwell said just a comment. This was on the Consent Agenda and moved up by the Town Manager, yet it meets the same definitions that we discussed earlier about Consent Agendas, so I'm seeing a double standard here.

Mayor Bales said I am happy to jump in there because I talked to Mr. Roberts about this particular item. I thought that there might be questions about the sale of this transformer and what we are going to be doing with a replacement etc., to have more of a clear well-rounded picture and understanding of why we were doing what we were doing. In our conversation as we were talking through the agenda, I said I think somebody might have a question around that transformer. I know I would.

Commissioner Kidwell said with all due respect Madam Mayor, that's one person making the decision for the Board when the Board should have been able to vote on the whole thing.

Mayor Bales said the Board was welcome to ask for it to be moved back to the Consent Agenda as well, but nobody brought that up. I felt that somebody might have a question around it.

Commissioner Munger said can you give us a little bit of history about this particular transformer. Why did we end up having this as a possible surplus, because it sounds like if it's something that we are going to sell, was it ordered by mistake, was it the wrong size – why do we have this that we are able to sell it and still make money off of it. I assume another one is coming in to replace it.

Don Mitchell, ElectriCities Director, said the transformer was purchased in 2017. Unfortunately, the engineer specified the wrong voltage on the transformer. While it's in service right now, the voltage coming out of it is marginal. It's working, but it won't work long-term. The engineer's Errors and Omissions Insurance has purchased a new transformer for this substation. It's to be delivered this spring and part of the agreement with the Errors and Omissions Insurance is that the Town would sell the existing transformer and give the proceeds from that sale to the insurance company.

Commissioner Kovacs made a motion to approve the Resolution to declare transformer at delivery #3 substation surplus.

Commissioner Boone seconded motion

Mayor Bales called for a roll call vote to approve Resolution.

Commissioner Boone – Approve
Commissioner Kidwell – Approve

Commissioner Kovacs – Approve
Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 11.

CONSENT AGENDA

Commissioner Phillips made a motion to approve the Consent agenda. Commissioner Munger seconded motion.

Mayor Bales called for a roll call vote to approve the Consent Agenda.

Commissioner Boone – Approve
Commissioner Kidwell – Deny
Commissioner Kovacs – Deny
Commissioner Partee – Approve
Commissioner Phillips – Approve
Commissioner Munger – Approve

The following items on the Consent Agenda were approved by 4 to 2 vote, with Commissioners Kidwell and Kovacs opposed.

1. Minutes of the January 18, 2022 Regular Town Board Meeting.

CLOSING COMMENTS

Commissioner Kidwell said I don't really know what's going on. We never really took a real vote to attend these meetings virtually. Here we are on our second meeting, so I don't know when we are going to meet back in person. I know that many members of the Board have had opportunities to go out, get some photo ops around town with a mask, without a mask, so I think we need to lead by example and meet back in person at Town Hall at some point or at least let's hold a vote on it and also just looking forward to the 7th for these public hearings that we are going to have so we can have more individuals from the town come and listen and ask questions.

Commissioner Boone said if you would like to put that in a motion, I think that would be appropriate at this time. I think tonight is a perfect example of where we had someone from the public who wanted to speak and couldn't get through. That's just not acceptable.

Commissioner Kidwell said unfortunately we are in closing comments and not able to make motions.

Mayor Bales said I will also say that we'll have some additional conversations around that. I think that I have already asked Town Staff if they can get from the county our Covid numbers so that we know in our hometown that those numbers are going down from what we saw last time. I, too, hope that we can be in person as well.

Commissioner Phillips said we also need to have a conversation around if we go back to in person, does that end virtual for everybody unless in the case of someone having Covid, because it is under the Covid extended emergency.

Mayor Bales said we can certainly do that as we move forward throughout the week.

There being no further business, the meeting was adjourned.

Approved this the 7th day of March, 2022.