

**TOWN OF HUNTERSVILLE  
TOWN BOARD MEETING  
MINUTES**

**June 21, 2021  
6:00 p.m. – Huntersville Recreation Center**

**PRE-MEETING**

The Huntersville Board of Commissioners held a Pre-meeting at 5:00 p.m. on June 21, 2021 at Huntersville Recreation Center, 11836 Verhoeff Drive.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Stacy Phillips and Nick Walsh.

Stephen Trott reviewed the Traffic Impact Analysis process. *PowerPoint attached hereto as Exhibit No. 1.* Possible options for the TIA process include: (1) No changes; (2) Raise the study threshold (150 peak hour and 1500 daily); (3) Limit intersections to be studied; and (4) Remove it.

The Board discussed the process. Mr. Trott stated his recommendation would be to raise the threshold.

Commissioner Walsh suggested changing the name of the TIA to Intersection Traffic Analysis.

Staff will continue to look at the process and bring back a recommendation.

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

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

The Regular Meeting of the Huntersville Board of Commissioners was held on June 21, 2021 at 6:00 p.m. at Huntersville Recreation Center, 11836 Verhoeff Drive.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Stacy Phillips and Nick Walsh.

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a Moment of Silence.

Mayor Aneralla led the Pledge of Allegiance.

**MAYOR AND COMMISSIONER REPORTS – STAFF QUESTIONS**

Mayor Aneralla

- Finance Department received Certificate of Achievement for Excellence in Financial Reporting.

- Hough graduate Erika Brown qualified for Olympics 100 freestyle/400 relay.
- Next meeting of the Metropolitan Transit Commission is June 23.

#### Commissioner Bales

- Thanked citizens for attending and showing their support for the process, whether it be in person or online.

#### Commissioner Boone

- Provided update on Lake Norman Chamber of Commerce events.
- Expressed appreciation to the first responders. National Night Out is August 3.

#### Commissioner Hines

- Provided update from the June 16 Charlotte Regional Transportation Planning Organization meeting.

#### Commissioner Munger

- Attended the Juneteenth Celebration at Ada Jenkins Center.
- Consider supporting local non-profits.

#### Commissioner Phillips

- Angels and Sparrows Soup Kitchen is providing 1,200 bagged lunches a week.

#### Commissioner Walsh

- Provided update on Huntersville Regional Chamber of Commerce events.
- Provided update on Parks & Recreation events.

Commissioner Munger asked staff if there were any updates on the ongoing buffalo ranch dirt quarry situation.

Brian Richards, Assistant Planning Director, said this is regarding the Palillo bison farm on Asbury Chapel Road. We did receive some reports of some activity that would not be compliant with the Zoning Ordinance and Erosion Control Ordinance. Staff has gone out. We did write a warning citation to Mr. Palillo and have been observing the site the last 10 days. Over those 10 days we have observed that the site is in compliance with the Zoning Ordinance, as well as the Erosion Control Ordinance, and we will continue to monitor the situation and make sure everything is operating correctly.

Mayor Aneralla recognized Jake Hogg, a local teenager who helped raise funds for toys given out at the Christmas event the Town hosted at the Huntersville Recreation Center and he also gave out five college scholarships for being kind.

Mayor Aneralla proclaimed July 2021 Park and Recreation Month.

#### TOWN OF HUNTERSVILLE PROCLAMATION

WHEREAS, parks and recreation programs are an integral part of communities throughout this country, including the Town of Huntersville; and

WHEREAS, our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS, parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and

WHEREAS, parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS, parks and recreation areas are fundamental to the environmental well-being of our community; and

WHEREAS, Huntersville's parks and facilities had more than 1.5 million visits in 2020; and

WHEREAS, parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and

WHEREAS, our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS, the U.S. House of Representatives has designated July as Parks and Recreation Month; and

WHEREAS, the Town of Huntersville recognizes the benefits derived from parks and recreation resources

NOW, THEREFORE, I, John Aneralla, Mayor of the Town of Huntersville do hereby proclaim the month of July 2021 as **"Park and Recreation Month"** in the Town of Huntersville.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Town of Huntersville to be affixed this the 21<sup>st</sup> day of June 2021.

#### **PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS**

Mike Vordenberg, 12126 Asbury Chapel Road, said I heard the report earlier, so he may have shut it down for a couple of days. We have a petition of over 35 people that have signed. We can give you a copy of this, of owners along Asbury Chapel Road requesting that South Creek Trucking and other dirt hauling firms that are owned by Jake Palillo to cease and desist from operating a dirt quarry and hauling dirt in and out of his facility in a commercial manner. Dump trucks have been video recorded, photographs taken showing a chain of command from the vehicles leaving the Asbury Chapel facility and dumping contents at commercial locations that Mr. Palillo does not own. My understanding is that goes against the zoning regulations, that he is only allowed to move dirt from one facility he owns to another facility he owns. He's got over 50 trucks and we've tried to keep track of it, anywhere from 40 to 50 trucks per hour, hundreds a day, going up and down Asbury Chapel. The other bigger issue is that the dump trucks will stop.....there's a dip in the road there, comes back up, and the dump trucks will stop because they have to wait for another to come out before they can come in and they will literally back up two and three trucks at a time and the cars come flying through there pretty fast – motorcycles 50, 60 mph and it's going to cause a real issue. I don't know if there's been any wrecks yet, but it's just a matter of time. I did call one time seeing if I could buy some bison from Mr. Palillo and he said he does not have any bison yet, that he's still filling in the dirt and I'm waiting for a ski resort or something because there's got to be a lot of dirt back there by now and a pretty good size mountain, but I haven't seen a mountain yet either, it just keeps kind of coming out at the same time. We would ask that you please shut this down. I don't believe that fining him is going to slow him down at all.

John Ohlson, 12034 Asbury Chapel Road, we are confused as to what exactly is going on. I live in the thick of it. There's a lot of trucks that come through here and it's horrendous. It's dangerous. Someone is going to get hurt or killed. There's already been people that have had their windshields taken out from the trucks. They've had to pay for them and they have. We've had people run off the road by the trucks, not to mention the filth we all live in over there. Take a drive down Asbury Chapel Road on a nice hot day like today and look at all the dirt in the trees and the ugliness of our neighborhood. I wash

my house constantly. I put a steel roof on and I cannot keep it looking green because of it. I am constantly changing my filters at my house like you've never seen. I date them. Within two or three weeks, I have to change it again. It's bad. They are claiming to wash the roads. They are not. They are wetting the road. When you wash the road you have a piece of equipment that scours the road. They are just doing a drop wet just to keep the dust down. And when the trucks go by, they drive like little angels if they see me out there and they are only rated for a certain weight on that road and they will run with all their wheels down, that road is not in compliance. These trucks are not in compliance with what that road is to be handled. We need some action taken on this facility to get them away from us because it is ruining our neighborhood and we all love where we live and we take pride in where we live and when you've got trucks constantly endangering everybody around you, it's a crap shot when I pull out of my driveway whether I'm going to get hit or not. I know Mike's got an even worse position, that gentleman Kelly back there, theirs are even worse than mine. They all have young kids. It's a neighborhood filled with kids, someone is going to get hurt. We really need help with this situation to get it taken care of. We don't know quite exactly which angle they are going. We are not trying to be difficult. We're just trying to live normal. We pay our taxes. We love where we are at in the neighborhood. It is not a commercial area. It's still a highly residential area. We are just asking for you folks to help get to the bottom of this thing. We are going to continue on our end to take some action. We don't know what it is, but we are still going to move forward because we need help and we need it taken care of.

Kelly Still, 12209 Asbury Chapel Road, said I live next door to South Creek's dirt quarry where I have personally been hit by a piece of his equipment that was illegally parked on someone else's property, as well as witnessed a mailbox hit by one of his trucks where he did not stop and the police did not file a hit and run for the incident. That mailbox is still in disrepair as a result of that. More than anything else this dirt quarry is a severe safety issue. It's an eyesore as John and everyone else has noted, but it's an extreme safety issue. The trucks don't stay in their lane and are hitting property and going off the side of the road. The ditch in front of my house has been destroyed by the tandem axles running across it and it's been repaired once before and it's already in disrepair again.

### **AGENDA CHANGES**

Commissioner Bales amended the wording of Item 10.A to read "Approve Resolution ratifying the acceptance of federal funds under the American Rescue Plan Act and associated budget amendment appropriating \$2,404,533 in ARPA funding to the ARPA revenue account and various expense accounts in the grant fund."

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

Commissioner Phillips seconded motion.

Motion carried unanimously.

### **PUBLIC HEARINGS**

**ROW Abandonment – Vermillion Front.** Mayor Aneralla called to order public hearing on unopened street right-of-way abandonment within Vermillion Front development.

Stephen Trott, Director of Engineering, reviewed the request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 2.* The adjacent property owners to the right-of-way were all notified per

the state requirements and those property owners all are Vermillion Front LLC. Staff has reviewed the request and found that it is not a detriment to public interest or property rights of adjacent parcels, does not deprive any individuals of a reasonable means of ingress and egress to their property, and does not adversely affect connectivity.

A Notice of Intent was published in the newspaper for four consecutive weeks. Copies of the notice were sent to all the adjacent property owners and two signs, as required, were posted along the right-of-way and to date no public comments have been received by staff.

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

**ROW Abandonment – Huntersville Market.** Mayor Aneralla called to order public hearing on unopened street right-of-way abandonment within Huntersville Market development.

David Peete, Principal Planner, reviewed the request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 3.* The right-of-way in question, that was platted and dedicated, is 100 percent owned by the applicant and they are asking to abandon that road because it doesn't fit into the plans that they have had approved.

The property is not a detriment to public interest or property rights of adjacent parcels. It does not deprive any individual of reasonable means of ingress or egress and does not adversely affect connectivity. All of the required advertising per our policies was completed. We have received no comments from anyone on this issue.

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

**ROW Abandonment – Town Center.** Mayor Aneralla called to order public hearing on two unopened street rights-of-way abandonments within Town Center development.

David Peete, Principal Planner, reviewed the request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 4.* In your agenda packet you will find that all those abutting have signed onto this application. It does not pose a detriment to public interest of property rights of adjacent property owners. It's not depriving any individual of reasonable ingress or egress, and does not affect connectivity issues. All advertising was done and no public comment was received.

Commissioner Munger said on Holbrook Street, from what I can tell we're actually going to build this, but we are going to build it at a slightly lower position. Is that just part of the process of abandoning this even though we are actually going to build it, but we are not going to build it exactly where this is.

Mr. Peete said the right-of-way that they will be constructing and dedicating back to the Town will be modified as you made reference to, so this is the cleanest and simplest way just to kind of start over again. If we could have left it or if the applicants could have left it, I think they would have, but it's just the easiest way to go.

Commissioner Boone said in the letter from North State Development addressed to you, there's a check for \$2,175.00 that was payable to the Town of Huntersville for administration costs. Can you explain that.

Mr. Peete said we have a fee for this action and I'm not sure if Mr. Trott has any more that he would elaborate, but the primary expense for that fee is for advertising.

Commissioner Bales said since this one has additional property owners involved here, everyone who signed the agreement of understanding is aware that once the property has been abandoned and basically adds to their properties, that those individuals will be responsible for the maintenance as well as the tax burden of the addition.

Mr. Peete said I cannot speak to what the applicants do or do not understand on the submittal. By signing the application, they received notification of tonight's hearing and we've received no calls about what this process entails.

Commissioner Bales said in reading through the paperwork here, it says the owners will then be responsible for maintenance and any additional property taxes that may result from the increase in size of their original parcel and they have signed it. I'm just making sure that was kind of gone over with them or do we know that.

Mr. Peete said we do not know that.

Emily Sloop, Town Attorney, said by signing the petition they have agreed that they understand.

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

#### **OTHER BUSINESS**

**ROW Abandonment – Town Center.** Commissioner Boone made a motion to approve the abandonment of two unopened street rights-of-way within the Town Center development.

Commissioner Walsh seconded motion.

Motion carried unanimously.

*Order attached hereto as Exhibit No. 5.*

**ROW Abandonment – Huntersville Market.** Commissioner Hines made a motion to approve the abandonment of an unopened street right-of-way within the Huntersville Market development.

Commissioner Boone seconded motion.

Motion carried unanimously.

*Order attached hereto as Exhibit No. 6.*

**ROW Abandonment – Vermillion Front.** Commissioner Boone made a motion to approve the abandonment of an unopened street right-of-way within the Vermillion Front development.

Commissioner Walsh seconded motion.

*Order attached hereto as Exhibit No. 7.*

Motion carried unanimously.

**Petition #20-05 – Vermillion Anchor Mill Village.** Petition #R20-05 is a request by Vermillion Anchor Mill Village, LLC to modify the approved rezoning petition (#R16-12) that allowed a mix of 400 units (apartments and townhomes) and up to 165,000 sq. ft. of non-residential to 292 apartments, 49 townhomes, and minimum 70,000 sq. ft. of non-residential on 30 acres generally located at 404 N. Church Street.

Commissioner Hines said I would like to restate, as I did at the public hearing, that I own property on Second Street. It does not abut this property. I also own property on Fifth Street. I also have a piece of property that I'm selling to a builder that has been associated with Mr. Bowman, but it has no financial impact on anything personally or on my decision.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 8.*

The site in question is on Huntersville-Concord Road and actually has some frontage on Main Street and the approved conditional rezoning plan in 2017, as was mentioned by the Mayor, had 400 multi-family units. There was a mixture of apartments and townhomes. It was not broken down as to how many apartments versus townhomes, it was just 400 units total and up to 165,000 sq. ft. of commercial. The proposed rezoning amendment, which is R20-05, has been modified over time. The current proposal is for 292 apartments, 49 townhomes and a minimum 70,000 sq. ft. of commercial. At the public hearing there was concern that some of these commercial buildings which are green might have all offices, particularly on the first floor. There's two two-story buildings and two one-story buildings. The applicant has proposed adding a condition to the plan stating that the first-floor uses will be limited to commercial uses permitted by right, except that offices will be limited to healthcare services only. General offices would not be allowed on the first floor, but if there is a medical office, that would be allowed on the first floor, everything else is commercial uses. That was a change from the public hearing.

Based on input from the public hearing, the staff could support the conditional rezoning as long as the TIA, the Town and NCDOT requirements are provided, all outstanding transportation comments are addressed, red-lined comments are addressed and then the Town Board approve the next case, which will be a special use permit revocation for buildings over 50,000 sq. ft.

The Planning staff recommendation at the end of your Staff Report has a consistency statement and at the Planning Board meeting the Planning Board did unanimously recommend approval of amending the plan and it is now in the hands of the Town Board to decide whether or not to approve or deny the amendment.

Commissioner Bales said my first question revolves around transit-oriented density and can you talk to us a little bit about this modified amended plan and what that transit-oriented density looks like today.

Mr. Simoneau said the density with this modified plan is an overall density of about 11 units per acre. If you are providing density for transit, there's a minimum of 15 units an acre with a maximum of 40 units an acre.

Commissioner Bales said what this plan shows is that the density is not transit-oriented.

Mr. Simoneau said it is below the density necessary to support transit development per a TOD.

Commissioner Bales said in the modification it says the first-floor uses will be limited to commercial uses permitted by right except that offices will be limited to healthcare services only. When I read commercial uses, are we referencing retail or are we referencing just commercial uses.

Mr. Simoneau said commercial uses as defined in our ordinance. It's more than just that, it could include a restaurant, a bar, personal services such as a beauty shop, etc. That's all under that umbrella commercial use.

Commissioner Bales said all of that is under commercial uses. I just wanted to make sure that we all understood what that meant, because I know there's been a lot of conversation around retail on the first floor, but I think for clarification that opens things up a little bit better to understand that it's restaurants, barber shops, beauty salons, a Subway, a urgent care maybe.

Mr. Simoneau said correct. All of those would be considered commercial use.

Commissioner Hines said regarding the commercial space, it was up to 200,000 sq. ft., up to 165,000 sq. ft., now it's a minimum of 70,000 sq. ft. Do you have a comparison of something in Huntersville that would be comparable to 70,000 sq. ft.

Mr. Simoneau said I've got two examples. One is in Huntersville and one is just outside our jurisdiction. The one on the left is called Pecan Ridge, it's Mt. Holly-Huntersville and Harris Boulevard and that's in the Charlotte jurisdiction. We are on the other side of Mt. Holly-Huntersville Road. That's actually 56,000 sq. ft. Market Square, I've highlighted in red the buildings of Market Square, that actually adds up to 77,500 sq. ft., so slightly more.

Commissioner Munger said under the old plan I noticed 0.87 acres going to the Mooresville to Charlotte Greenway Trail, I don't see that number on this plan. Can you tell me if that is still happening.

Mr. Simoneau said the Mooresville to Charlotte Trail is still a part of this, it just doesn't have the acreage in there. There's also the Clark Creek Greenway, which is in this area here, that is also a part of this project. There's actually two pedestrian ways through here.

Commissioner Munger said my understanding under this new plan, the burden to provide a safe route for pedestrians to cross Huntersville-Concord Road to access any commercial venues or the greenway system, will be put upon NCDOT and the Town of Huntersville.

Mr. Simoneau said what we are talking about is right now with this plan at the intersection of Cinnabar and Huntersville-Concord Road there's not going to be a traffic signal at this point in time, so the issue was if you put these commercial uses over there, you want people to be able to walk to them from Vermillion. We have asked the developer to work with NCDOT to determine the best way to get the citizens across this intersection. Right now they are looking at pedestrian heads and it would be the developer who is offering to pay for that. NCDOT has to approve it because it's their road, but the developer, through this plan, is offering to cover that cost.

Commissioner Munger said I also see a note that Engineering staff would not be opposed to the applicant offering funding towards a future improvement project at the intersection of NC 115 and Huntersville-Concord Road. Has the applicant offered any of that funding.

Mr. Simoneau said the applicant has agreed to do all the improvements as recommended by our Town Engineering Department, so it's either the improvement or pay the cost, and NCDOT has concurred with our Town Engineering that those are the improvements they want to see as well. The developer has agreed to both what NCDOT and the Town Engineer wants to have done to comply with the Town's Traffic Impact Analysis.

Commissioner Munger said according to Policy DT 6.2 it mentions upgrades to Church Street and Walters Street. Are they being upgraded as a result of this development and by whom.

Mr. Simoneau said Church and Walters Street, these are streets that will ultimately be improved that are within the boundaries of this development. They would be improved by the developer that's within their boundaries. Outside of the boundaries, it would be up to the Town.

Commissioner Munger said is there any specific use limit on the commercial building near the water tower.

Mr. Simoneau said no, there is not. This is the building here that we are talking about and to answer that question, no that would be a commercial use except for offices. That would be the limitation.

Commissioner Munger said with that limitation that the applicant has agreed to, in theory all of the green buildings on this could be medical offices or medical related. That would be an acceptable outcome.

Mr. Simoneau said that would be per the conditions on this plan, that's correct.

Mayor Aneralla said I just wanted to kind of think through this a little bit. It's unusual the Planning Board had a unanimous decision and Planning staff. As I look through the plans over the last 20 years, this is the type of plan we have been striving for and within the current plan we've got greenways, a 3-acre park, potential commercial/retail, restaurants. Also, I think it's interesting that the tree canopy is going to be about 20 percent when the ordinance doesn't even require any. Specimen trees, 45 percent are being protected versus the ordinance 30 percent. In working with Mr. Bowman over the last 4 or 5 years on this project or listening to him in talking to some of the supermarkets and various things, I think he has given us a best effort on that initial plan and I think this is a good plan. This is what this area has been calling for for the last 20 something years. I think it's much improved over what we saw about 6 or 8 months ago and we'll look forward to seeing what happens tonight.

Commissioner Bales said going back to Commissioner Munger's question around medical. Is there the possibility of only limiting that to a certain percentage medical in the buildings.

Mr. Simoneau said as a conditional rezoning it's up to the applicant to agree to the conditions. You know the condition that the applicant was willing to put in that note. The applicant is here so we can ask him that question.

Commissioner Bales said I don't know what that percentage should be, but I think that it would make us all feel a little bit more comfortable knowing that it all didn't turn out to be medical offices.

Nate Bowman, 205 S. Church Street, said it's kind of ironic.....the same reason why the grocery stores are all lined up over at Rosedale. I can't imagine getting that much medical office when the hospitals are all over there. They are lined up. We've got Atrium up next to the bowling alley and of course the hospital. I'll be happy to come up with a percentage, we just can't imagine getting anything more than maybe.....we would like one urgent care because that would be convenient for that side of town. I have no problem considering that. I don't know what number you all are thinking because we don't expect to have a lot of medical office over there.

Commissioner Bales said I do think that it might make some Board members feel a little bit more comfortable versus just opening it completely.

Mr. Bowman said do you have a number in mind.

Commissioner Bales said I was going to say 20 percent. Is that too much.

Mayor Aneralla said I think the market dictates what will be on the bottom floor there, so that's my opinion.

Commissioner Munger said my opinion would be there's three buildings, one out of the three, a third.

Commissioner Bales said no more than.

Commissioner Munger said no more than a third on the first floor.

Mr. Bowman said let's just pick one of the two-story buildings. I can't read the square footage in front of me, but we'll go ahead and limit it to the amount that could go on one of the first floors of the two buildings. Can you read the square footage on that.

Commissioner Munger said I think it's 22,4 something.

Mr. Bowman said the whole building.

Commissioner Munger said the whole building, I would guess.

Mr. Bowman said we would limit it to 11,2.

Commissioner Walsh said I just want to be sure I understand.

Mr. Bowman said they could go on the second level. Steve told me that he's been doing some urgent cares that are two-story.

Commissioner Munger said no limits on second level.

Commissioner Walsh said I just want to make sure I understand, so are you talking about limiting medical to only one building or some number of square feet, because I could see you could have a dentist there in one building and maybe in another building a urgent care or something else that just didn't work out, so if one of those buildings were built out, let's say had a dentist and a dry cleaner and

then somebody came in later, I think I would feel more comfortable with a percentage or something like that.

Mr. Bowman said or the square footage itself, 11,200 sq. ft.

Commissioner Bales said that's fine with me.

Mr. Bowman said we're comfortable with that.

Mayor Aneralla said you're comfortable with 11,200 sq. ft. on the front or less of medical.

Mr. Bowman said right.

Commissioner Bales said could you tell me what your plans are for the water tower.

Mr. Bowman said we have bids in to have it painted and refurbished because that's going to be an urban park there. Our goal was to have a restaurant/brewery, so we have outdoor space there. That's what we are shooting for. It is salvageable. It's not going to be sandblasted because it has lead paint all over it. They recommended painting over it. We still have our file from 5 years ago when a kid in loafers climbed up the ladder and went all the way up there and had no problem with the height.

Commissioner Munger said will any of the housing be considered low income housing.

Mr. Bowman said no.

Commissioner Walsh made a motion in considering the proposed Rezoning Application #R20-05, Vermillion Village Rezoning Amendment, the Town Board approves this zoning as it is consistent with, but not limited to, Policies LU 2.1, 6.2, 7.1, 9.1, 10.1, EV 2.3, EOS 10.1, DT 1.3, 2, 6.2, 8.2, 11.1 and T 3.1 of the 2040 Community Plan. It is reasonable and in the public interest to approve the rezoning plan because it provides a variety of housing types and 70,000 sq. ft. of non-residential development in our downtown area consistent with long-range plans. This approval is contingent on all required TIA Town and NCDOT required improvements are provided per Part 3 of the Staff Report, all outstanding transportation comments are addressed, the Town Board approving the Special Use Permit revocation to allow buildings over 50,000 sq. ft., and first floor uses will be limited to commercial uses permitted by right except those offices will be limited to healthcare services only with a maximum of 11,200 sq. ft.

Commissioner Hines seconded motion.

Commissioner Boone said I want to be sure I understand the 11,200 sq. ft., is that just one building or a combination of buildings.

Commissioner Walsh said it's just any combination of the buildings, so there could be two buildings but the total cannot exceed 11,200 sq. ft. on the first floor.

Commissioner Munger said the people of Huntersville were promised a significant commercial presence in this area and it is my opinion that this plan fails to deliver that. I continue to believe that at some point in the next few years we will be back here again listening to the developer explain to us why he can't seem to find commercial entities to fill all of the 70,000 sq. ft. of commercial space included in this plan's second phase, which will inevitably lead him to ask to modify the plan to include even less

commercial space and replace it with more apartments or townhomes. According to our CMS impact, the proposed development may add 48 students to the schools in this area. This will push Blythe Elementary to 112 percent capacity and North Meck High School to 115 percent capacity. The total estimated capital cost of providing the additional school capacity for this new development is \$1.364 million and in previous meetings I've explained exactly how long it takes for property taxes to replace this amount of money. Mr. Bowman is very well qualified developer of residential properties. He does not, however, have the same track record with working on commercial properties. In his own words he told me that building Harvey's in Vermillion was a mistake and he needed to carry it for years until it was finally sustainable. If you look at the units near Harvey's, a number of them were designed to have some form of commercial on the bottom and residential on top. For a while some businesses did exist in this manner, but now they have all disappeared. Maintaining a good mix of residential and commercial is essential to a long-term viability of the Town of Huntersville and can put off the possibility of an increase in property taxes for some time. The people of Huntersville deserve to have increased opportunities for shopping, dining experience and most importantly jobs. We are more than a bedroom community whose sole purpose is to house the workers of Charlotte. We need to expand the opportunities to live, work and play right here in Huntersville. If the current developer is unable to build what we deserve and what was promised to us 4 to 5 years ago, instead of us adapting to what he is capable of building, maybe what we really need is the right developer who is capable of bringing commercial properties that will make Huntersville a more well-rounded community.

Mayor Aneralla said point of clarification, Mr. Bowman, when you build this you are building the pads as well for the commercial.

Mr. Bowman said yes and one point, Steve couldn't be here because he's at a Town Board meeting in Harrisburg, but my partner is the same guy that put Birkdale Village on the map and he has a 25-30 year track record of commercial development. I specifically partnered with him because of my inexperience in that area and he will continue to be involved in this project with all 70,000 sq. ft. He's my partner, he's in it and he understands what our goal is to pull this off. Steve couldn't be here, so I wanted to stand up for him.

Mayor Aneralla called for the vote to approve Petition #R20-05.

Motion carried 4 to 2, with Commissioners Munger and Phillips opposed.

Mayor Aneralla said the next part of our agenda we have three quasi-judicial hearings and as I previously stated they are a little bit different. I'm going to read you some rules that we are going to go by and I'm going to read them once even though they are going to apply for the other two quasi-judicial hearings.

**Removal of Special Use Permit #SUP17-01 – Vermillion Village.** Mayor Aneralla said quasi-judicial hearings are evidentiary in nature. The Board must base quasi-judicial decisions on competent, relevant, and substantial evidence in the record.

Competent evidence is evidence that is sufficiently trustworthy and reliable, and that is legally fit and acceptable for consideration by the Board. Speculative, irrelevant or vague evidence, non-expert opinions as to something that requires an expert, and non-expected hearsay evidence will likely not be competent evidence.

Material evidence is evidence that shows that the standards will or will not be met.

Evidence is substantial if it is relevant and regarded by a reasonable person as sufficient to support a specific conclusion. Speculation, unsubstantiated fears of the community, or vague assertions do not constitute substantial evidence.

Quasi-judicial hearings are constrained by the standards in the ordinance and the facts presented.

Only parties with standing including the applicant, local government, and individuals who can show they will suffer special damages have the right to participate fully in the hearing. Parties may present evidence, call witnesses, and make legal arguments. Other individuals may speak as a witness, however they will not be allowed to participate fully as a party, such as by questioning other witnesses, or by calling other persons to testify.

Witnesses must swear or affirm their testimony. General witness testimony is limited to facts, not personal preferences or opinions.

Certain topics require expert witnesses including projections about impacts on property values and traffic impacts or intersection impacts. Individuals providing expert opinion testimony must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Mere conclusory testimony lacking the foundation of the expert's opinion is insufficient to establish the existence or non-existence of a fact or conclusion.

Even though the Board may rely on other evidence if it is not objected to, the Board should rely on competent, reliable evidence in making its decision.

At this time, I will recognize the parties for our opening of conduct a quasi-judicial hearing on the removal of the Special Use Permit 17-01, Vermillion Village. Mr. Simoneau and I assume Mr. Bowman.

Mayor Aneralla swore in Jack Simoneau and Nate Bowman.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 9.*

On June 5, 2017, the Town Board granted a Special Use Permit for a shopfront building to exceed 50,000 sq. ft. In this particular case it happened to be a 76,000 sq. ft. building that was being proposed and this was at Vermillion Village. The Rezoning Request R20-05, which was just approved, modifies that plan for Vermillion Village and the Special Use Permit for a shopfront building to exceed 50,000 sq. ft. is no longer needed. Staff recommends that the Special Use Permit be removed. On May 25, 2021, the Planning Board also unanimously recommended removal of the Special Use Permit.

Mayor Aneralla said I probably should have done this before, but the parties to this case are entitled to an impartial Board. A Board member may not participate in this hearing if he or she has a fixed opinion on the matter, a financial interest in the outcome of the matter, or a close relationship with the affected person. Does anybody on the Board have any partiality to disclose or conflict of interest to offer tonight.

There were no disclosures.

Mayor Aneralla said has anybody had any ex parte communication. The parties to this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about

the case outside of this hearing. That may be email communications, as well as conversations with parties, staff, or the general public. Does anybody have anything they would like to disclose? I think we all know Mr. Bowman and received emails way back about the overall project. Since there are no disclosures that we have heard from the Board, does any member of the Board or any party to this matter have any objections with Board members.

There were no objections.

Commissioner Walsh made a motion to remove the Vermillion Village Special Use Permit 17-01 that allowed a shopfront building over 50,000 sq. ft. in the Town Center zoning district.

Commissioner Bales seconded motion.

Mayor Aneralla said any further discussion. I don't think anybody else has anything to add, no questions of either party. We have a motion, we have a second. All those in favor.

The motion carried unanimously.

Mayor Aneralla said the application as originally submitted was considered by the Planning Board. We didn't consider that. Staff will draft and I (or an authorized designee) will sign a final written decision to reflect the vote and reasoning for this decision. That written decision will be provided to the applicant and other parties with a right to such notice.

**Petition #SUP21-01 – Banquet Facility.** Mayor Aneralla said our next quasi-judicial hearing is conduct a quasi-judicial hearing on Petition #SUP21-01, an application by Grassroots Land, LLC to modify the approved banquet facility special use permit for the property located at 14418 NC Highway 73 to add an open air pavilion to the facility, increase the size of the principal building and modify other aspects of the site plan. Who is here for the applicant, let's go ahead and swear them in.

Mayor Aneralla swore in Gayle Allen, 15550 Stumptown Road; Jay Henson, 8926 Lizzie Lane; Brad Priest, Principal Planner; and Stephen Trott, Director of Engineering.

Mayor Aneralla said before you submit your Staff Report, any ex parte communications, any conflicts. As we found out last time, Ms. Allen, I coached your son 7 or 8 years ago and I do wave to her every time she's picking up her garbage on Stumptown Road, whether she knows that's me or not, but no other further information.

Brad Priest, Principal Planner, entered the Staff Report into the record. As described we're talking about the Special Use Permit application for property on NC 73. Here you see the zoning is Rural, just west of Brown Mill Road and Beatties Ford Road. Aerial photography of the site, wooded, rural, rustic looking facility there. The Zoning Ordinance allows, with the issuance of a Special Use Permit, banquet facilities to be a use as permitted with conditions listed in Article 9.59. Staff has outlined and put into effect a finding of fact that lists all the findings based on those requirements of Article 9.59. The permit here before us is actually an amendment to an approved Special Use Permit that was approved last year in September 2020. Here before you, you see the site plan that was approved. The change to be considered is an additional event open-air facility in the rear of the property. That's the main change of the application there. There were some other changes when the submittal came in, but in the latest submittal by the applicant, the changes are removed, so really the consequential change is the additional 2,400 sq. ft. open air facility in the rear there.

Here's the elevations that were approved and attached to the SUP that were proposed. Again, Rural to match the barn venue that will be the main event facility. Site plan comments, staff has reviewed it and recommends approval. Two clarification points are recommended, though. One, the applicant raised at the Planning Board meeting a desire to have more than one event per day as long as the maximum amount of guests does not exceed 175. Staff went through with Engineering staff and Mecklenburg County staff and found that would not change the determination on their septic permit or the TIA determination, so they are good to go there. Comment on the approval and the reconciliation on the septic permit which is required on the ordinance, it is approved for a 200-person facility, so that's a checkmark off on the requirements. However, the facility that they are using, the septic system cannot be used every day, so staff requested a note be added to the plan just to make sure that they don't go over what Mecklenburg County allows and the septic system can permit.

The Planning Board met and reviewed the application last month and reviewed it and recommended approval by a 6-2 vote. Staff recommends approval with the added note in regard to the septic system.

Commissioner Walsh said you mentioned, what's the total number of guests that they are allowed to have, is it 175.

Mr. Priest said 175 with 25 employees, workers, caterers in the facility.

Commissioner Walsh said and then again for clarification, there was concern about multiple events.....they have one event in the morning with 50, one event in the afternoon with 50, obviously that doesn't exceed 175.....so you are recommending only one event a day or you are comfortable with multiple events a day.

Mr. Priest said staff is comfortable with the flexibility, that's correct. The flexibility is fine as long as it doesn't go over that max.

Commissioner Walsh said but you want a note that says the updated septic permit can't exceed whatever that permit allows

Mr. Priest said 175 guests and 25 workers as the note on the plan says, but at no time over what Mecklenburg County Environmental Health or the amount of the septic system is designed for. There's a lot of what the septic system can accommodate, how many people, and there's a length of time that gets into it. Mecklenburg County will inspect the septic system, but we are leaving that ball in their court. We don't want to get involved in the nitty gritty there. As long as we have a note basically saying that they are going to adhere to what Mecklenburg County requires, then that's fine with staff.

Commissioner Walsh said the next question has to do with parking. I can't tell how many spaces are there, but 175 people and 25 support staff, is there enough parking there.

Mr. Priest said yes, I think so. Just from understanding what we've seen in the past and what we've seen and looked through the internet, it comes about as far as paved spaces, it's one space for every two guests, so that was the point where staff considered it an acceptable level. When the application was submitted earlier on, they reduced some of the spaces and we asked the same question, are we going to have enough parking spaces there. They put those spaces back to meet that informal threshold of one per two guests and so with that staff was satisfied that it met that and it meets the Zoning Ordinance requirement as well. With that, we recommended approval.

Commissioner Walsh said just to be clear when you say one space for every two guests, the support staff or the 25 that is included in that or that's additional parking.

Mr. Priest said for the guests. And this is a maximum and we're understanding as well that they are not going to have that many all the time, every single event. If they do on occasion go over, there are additional parking spaces that are grassed to the east. If they go over the amount that have gravel, there is overflow parking available, so it's not like they don't have overflow room to park, it's just to the point where if you park all the time on the grass then the ordinance becomes an issue because that parking area should be paved and should meet storm water requirements, landscaping requirements, etc. Understanding that they have a fundamental foundation amount with overflow parking, we felt that the one per two guests was enough for that purpose.

Commissioner Walsh said from the staff's perspective, what would delineate too much. In other words, if you had one event a year that required overflow parking, it just seems intuitively that was good. It would be acceptable if you had one a week – would that be acceptable. In other words, if the overflow parking becomes a problem, how do we handle that.

Mr. Priest said if that becomes an issue then we reach out to the applicant and they have a note on the plan that addresses that, that says essentially if it turns out they need it on a regular basis then they will come back and they will pave it and they will meet the ordinance requirement. I think they actually sized the storm water pond for that, if they needed to do that in the future. It would just become an inspection and then a request. If they're not able to maintain the grass, it becomes muddy, it seems like it's being parked on too much, we are going to need to go ahead and transition that or we're going to have to cut back on the amount of usage it's getting. It's not a fatal flaw, it's just something that can be monitored and corrected in the future if we see it needs to be done.

Commissioner Walsh said if it becomes no it's not too much or no it's not too muddy, does our Planning Director have the authority to require them to pave it. There's a lot of ambiguity there.

Mr. Priest said yes, because there is a note on the plan that says that if they have an issue like that, then staff has the ability to require that, so they added that as a condition on the plan.

Commissioner Munger said in considering the Special Use Permit SUP20-01 modification, Ivory Barn Event Venue, we the Town Board find that the modification request meets all required conditions and specifications, is reasonable and does not pose an injurious effect on adjoining properties, and finds that the character of the neighborhood or the health, safety and general welfare of the community will be minimized. This decision is supported by the following findings: (1) the request meets the Zoning Ordinance criteria of Article 3.2.1 and (2) the request meets the Zoning Ordinance criteria of Articles 9.59.1 through 9.59.11.d.

Commissioner Phillips seconded motion.

Commissioner Walsh said what will the hours of operation be.

Mr. Priest said it's per ordinance.

Mayor Aneralla called for the vote.

Motion carried unanimously.

**Mayes Road Subdivision Sketch Plan.** Mayor Aneralla said we'll open up to conduct a quasi-judicial hearing on Mayes Road Subdivision Sketch Plan, an 83-lot single-family detached residential development at 12000 Mayes Road in the Transitional Residential zoning district.

I know we have several adjoining property owners who want to come up here.

Mayor Aneralla said we have Marie Bjorneboe and Paul Bjorneboe, Jr., landowners across the street. And Mr. Stephen Bjorneboe who came all the way from California. Thank you for coming and we'll let you talk, but your parents definitely have standing here, and we definitely want you to speak to us if you flew 3,000 miles. Who else do we have.

Nate Bowman said Daniel Gates.

Mayor Aneralla said Daniel Gates and Nate Bowman, Stephen Trott and Jack Simoneau.

Mayor Aneralla swore in Marie Bjorneboe, 12001 Mayes Road; Paul Bjorneboe, Jr., 12001 Mayes Road; Stephen Bjorneboe, 1415 N. Spaulding Avenue, Los Angeles CA, Nate Bowman, Daniel Gates, Stephen Trott and Jack Simoneau.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 10.* This is a request by Mayes Bowman LLC to have a major subdivision sketch plan approved on 55.63 acres at 12000 Mayes Road. The property is zoned TR Transitional Residential. Right now it's vacant and there's a single-family home. The proposed development is 83 single-family homes and that includes the preservation of the existing home, which was built in 1921. The Huntersville Community Plan which was in part of the record indicates that this area is moderate density that would be anywhere from 1 to 3 units per acre. This development is 1.49 units per acre. It happens to be on the edge of our boundary and Mayes Road is shown going across the middle of the screen and in green highlight is the site in question. Just north of Mayes Road is Cornelius sphere of influence and you can see along Mayes Road further there is a section of road that's actually Davidson's sphere of influence that's under control of the Town of Davidson, so that road has three different jurisdictions that have control over it.

What we have provided here is just an overall map of Mayes Road. Through this whole process there's been concern about the development happening on Mayes Road, so let me explain. This is Mayes Road running east/west. This is Mayes Road subdivision. It's 1.49 units an acre. Just beyond that to the north, this is Cornelius' jurisdiction and this development was approved at 1.74 units an acre. As you go further to the east, there's a development here in Davidson that's approved at 2.8 units per acre.

During the Planning Board meeting there was a question asked about this road right here, where Mayes Road intersects with 115. I think most of you are familiar with it. This happens to be a picture and that is that there is a difficult separation elevation change. The question was asked, is there anything going to happen there and so in your Staff Report you were provided information. There was a grade separation study done. Norfolk Southern was involved. CATS was involved. They do intend to move the access point further south, so kind of close that section, so you see in red that kind of represents where it could possibly go. What you see here in this shaded area is Caldwell Crossing, so that is a proposed rezoning that will be coming to you in August. It's on your agenda tonight to call for a public hearing August 2. That would establish a road system that will allow Mayes Road to connect here. Now that

ultimately is a decision made by NCDOT and Norfolk Southern, so that is completely up to them. As this project is being looked at, Norfolk Southern and DOT are at the table talking about that. I also showed a road system that kind of shows the connection to the north, so it probably will weave up here so there might be multiple connections to Mayes Road and you can see where this development also proposes to make a connection to the west.

This happens to be the site plan in question. Again, they are all single-family dwellings and various the three different lot sizes that the Town requires. All the open space requirements are being met. They will have to have landscape buffers along Mayes Road and they also will have to have buffer along all the property lines that are zoned Residential and this area right here happens to have some larger lot single-family homes which also require the buffer and with that I am here to answer any questions that the Town Board might have.

Marie Bjorneboe said I gave the Town Clerk copies of what I'm getting ready to say just so you have that to refer to. *Refer to Attachment No. 11.* I wanted to thank the Town Board for this opportunity. My name is Marie Bjorneboe and I live at 12001 Mayes Road with my husband Paul Bjorneboe, Jr. and directly across the road from the proposed development. His mother was Virginia Mayes and we have lived in our current home since 1973. My husband grew up in the house across the road that is part of the Bowman/Mayes Road project.

I am not against development. Of course, I would prefer it to be more in line with the type of density and quality of life that currently exists. My primary concerns are with the additional traffic and the design of the development as to where the west entrance/exit from the development is located. It is diagonally across from our driveway. Our driveway could become an intersection instead of a driveway. At the least, it could make it more difficult for us to get in and out of our driveway. The sketch plan that was sent out on the back of the letter about the May 25 meeting was not the latest one. And I've included in the packet there the one that was sent out. It did not show where the final entrances/exits from the development will be located.

Mayes Road is a narrow, two-lane road with blind curves and intersections. There are certain times during the day now that the road is heavily traveled. Mayes Road is used as a cut-through to Highway 115 when there are accidents on 115 or 73. During those times I have seen traffic backed up in both directions on Mayes Road. Mayes Road is also used as a cut-through from Bailey Road to 115. The NCDOT has agreed there are current problems with the Mayes Road/115 intersection and the Mayes Road/73 intersection. The Mayes Road/73 intersection has already been made a right-in/right-out restricted intersection from Mayes Road onto 73. I have been told there are future plans to reengineer the Mayes Road/115 intersection and to widen Highway 73. However, these plans are in the future, but the development is occurring now. I ask that no more development be approved until the infrastructure to handle the traffic is in place. The last Traffic Impact Analysis was done in 2016, which was 5 years ago. Since then, due to development along the road and other adjoining roads, the traffic has increased.

I have been communicating my concerns with Jack Simoneau, NCDOT and the entire Planning Board almost daily since the first neighborhood meeting three months ago. I want to thank Mr. Simoneau, Mr. Sny and the NCDOT for responding. I have also sent all of these communications to each member of the Town Board. You should have received them this morning.

I respectfully ask each of you, if you haven't already, to visit Mayes Road to have a better idea of what you are voting on. And after that, ask yourself if this were being proposed for your neighborhood and the conditions were the same, would you approve it.

Again, thanks to the Board for this opportunity.

Paul Bjorneboe, Jr. said my name is Paul Bjorneboe and I currently at 12001 Mayes Road with my spouse Marie. We have lived there since 1973. I have lived on Mayes Road almost all of my life. I lived at 12000 Mayes Road from 1944 to 1962.

I am not against all development, I would just prefer that it be more in line with the existing density and have minimal impact on adjacent landowners. I have several concerns.

First is the requirement by a prior plan for right-in/right-out access to the development with a concrete median in the center of Mayes Road. When one really thinks about the effects of this, it doesn't make sense. With the median in the center of Mayes Road, all driveways/entrances with access along the median on both sides of the road are limited to have only right-in/right-out access. It is also a hazard to traffic in both directions on Mayes Road since it is a two-lane road. I think NCDOT is making a mistake applying rules for interstate highways to two-lane country roads. If a development is required to have right-in/right-out access, then I feel the developer can add a third lane and the concrete median to the righthand side of the two-lane road on their property at their expense.

It is my understanding that in the latest plan, NCDOT will allow full access at the two new entrances to 12000 Mayes Road. Hopefully, I will continue to have full access to Mayes Road from both of my driveways with no traffic island in the center of Mayes Road. It seems to me that full access is a win for all, a win for me since I will retain full access to Mayes Road, a win for the people who live on Mayes Road since they will have unrestricted movement on Mayes Road, a win for emergency vehicles since they will have unrestricted access on Mayes Road and two unrestricted accesses to the development, a win for the people who eventually live in the development since they will have two roads with full access to Mayes Road, and a win for the developer because it was similar to what he planned at first.

Second, there are three developments at various stages on Mayes Road with jurisdictions in Davidson (Mayes Hall), Cornelius (Mayes Meadows) and Huntersville (12000 Mayes Road). These developments only have access to Mayes Road and the cumulative effect of this added traffic is basically unknown. Mayes Road currently connects to Highway 115, Caldwell Station Road, Westmoreland Road, Barnhardt Road, and Highway 73, which is by the way right-in/left-in/right-out. There may be plans years in the future to address roads, but the development is happening now. There are times during the day that it is difficult to get out of our driveway. When there is an accident on Sam Furr Road, Mayes Road is used as a cut-through to Highway 115. I have seen traffic backed up as far as I can see from my driveway on Mayes Road in both directions. Just this development and Mayes Meadows alone will add about 242 or 262 houses. I feel Huntersville, Cornelius and Davidson need to fund a new traffic study to be one with the schools are fully open to get an accurate assessment of the transportation needs for the present and the future.

Third, is the issue of quality of life. Quality of life and density are inversely proportional, the lower the density the higher the quality of life and the higher the density the lower the quality of life. Lower density is more esthetically pleasing – there's more open space and less impact on public resources.

Fourth, there are currently three Duke Energy utility poles on the property at 12000 Mayes Road. The electric distribution lines have been on the south side of Mayes Road all my life and should remain that way. I don't want any new poles or guy wires added to my property on the north side of Mayes Road.

Fifth, what is being considered for the name of the development and the names of roads within the development? I would hope that the names would reflect my and Jim Bjorneboe's ancestors who have lived at 12000 Mayes Road in the recent past. Development name suggestions are Mayes Glen, Mayes Forest, Mayes Woods and Mayes Acres.

Stephen Bjorneboe said my name is Stephen Bjorneboe and I am the son of Marie and Paul Bjorneboe who live at 12001 Mayes Road. Their property is adjacent to the proposed 12000 Mayes Road development. I grew up there from 1973 to 1987, and as one of my parents' heirs, and as a future, hopefully in the far distant future, owner of their current property, I have a strong interest in anything that happens on Mayes Road or nearby. After attending the developer's Zoom meetings, viewing the livestreams of the town council meetings, and hearing details of the development, I have concerns, and this reiterates some of what my parents have already said.

I go back to visit my parents often and have experienced firsthand the heavy traffic in both directions. Over the years the amount of traffic has only increased. I've found it often very difficult to get out of my parents' driveway. The speed with which the traffic moves on this narrow and winding road only adds to the difficulty and to the danger as well. A blind curve by their house can be especially unnerving. Also, when traffic is heavy on surrounding roads or there's an accident, people often use Mayes Road as a cut-through. I'm sure the limited observations that the NCDOT performed five years ago in 2016 could not, by their very nature, have recorded all of these instances and issues. The proposed development that would go in directly opposite my parents' property along with others along Mayes Road would only exacerbate the problems. The two developments that I know of would add over 250 homes to Mayes Road and all within less than a mile of each other. I'm sure that one of the attractions to living in the Mayes Road area has been its rural and quiet nature. I fear that the towns of Cornelius, Huntersville and Davidson will turn Mayes Road into a string of large, multi-home developments, destroying the very nature that makes the area so appealing. Do the towns converse on their separate developments that each is considering? Do they consider their separate studies and projects in a more global way, or only in their own little microcosm? I am also very concerned that there are too few residents on Mayes Road to complain enough to truly be heard, and I think it's just three this evening.

Also, construction vehicles for these developments, including heavy trucks and landscape grading equipment would be additional traffic. And crucially, these industrial vehicles would put great wear and tear on Mayes Road, degrading the quality and durability of the road itself.

During one town meeting there was discussion of widening roads or altering the intersection of Mayes Road and Highway 115, which we already discussed. These solutions are ones that are several years away and would do nothing for the immediate future as traffic and development will continue to increase. Quality of life would suffer increasingly in the meantime and I presume that possibly widening Mayes Road would involve taking land from property owners.

The prospect of an entrance/exit for the development being across from my parents' driveway is an additional concern for their ease of access to and exit from their own property. I don't want their driveway to become an intersection where traffic in and out of the development slows or hinders their movement. Increased traffic and the possibility of limited access to properties would also slow and hinder emergency vehicles when every second matters.

I hope that these concerns, along with those of my parents and the other property owners, will be seriously considered when discussing the pros and cons of this proposed development.

Mayor Aneralla said any questions of staff.

Mayor Aneralla said I'm sorry for the acoustics in here, but I was having a little bit of difficulty, so I'm not 100 percent sure if you heard everything about the concern about the road improvements and then the exits/entrance from the new development. When I look at this map, from what I heard from the Bjorneboes, is that the entrances would going to the front or are across from their property, but I don't see that here and then there was something about the improvement on Mayes Road with the median and so forth. Can you address those concerns.

Mrs. Bjorneboe said this sketch plan up here isn't exactly correct. If you will look up where they have the western boundary of our property, that's incorrect. Actually, the western boundary of our property is about 100' more to the west, so that's incorrect.

Mr. Bowman said according to our surveyors, the road is where it's located. The adjoining property owner, Dan Mayes, was out with us looking at our corner over here, so we are confident that our surveyors are correct where the road is and it's slightly offset from their driveway.

Mrs. Bjorneboe said that's not correct.

Mayor Aneralla said so like it's a trial, so I'm the judge and I'll call on you and you have a lot of rights here, so we'll let you be heard.

Mayor Aneralla said is your commitment that the entrance/exit from your development, should it pass, is not going to be across from their property.

Mr. Bowman said correct. And the right-in/right-out was an early requirement by NCDOT and they got rid of it. I think Mrs. Bjorneboe was successful where I wasn't. They wouldn't listen to me. I didn't want to put it in. But I think she was successful in getting them to take that out. And the separation, while the road is all the way over there, they required at least 1,150' separation between the two entrances and that's as far as we could get it from the other one to satisfy NCDOT. Just two things, Mr. Bjorneboe, we've decided to call it Glen Mayes, that's a patriarch of the family and the power company told us today, they are not adding anymore poles. They have withdrawn that. I just got an e-mail.

Mayor Aneralla said Mr. Trott, the way the road is going to be reconfigured, did you kind of get the gist of that. Is there a median now.

Mr. Trott said it sounds like Mr. Bowman has had additional conversations with DOT indicating that the median is no longer required.

Commissioner Munger said I can't wait for you to tell me I can't ask this question.

Mayor Aneralla said who are you asking the question of.

Commissioner Munger said Staff – it can either be Jack or he might defer to Ms. Sloop. Subdivision sketch plans are quasi-judicial. What is the specific reason that they fall into the quasi-judicial realm.

Mr. Simoneau said I'm going to jump into that and then Emily can jump in if she desires. Our subdivision rules and regulations are not all black and white. There's some discretion used in approving subdivisions. If you look at the Staff Report, you'll see criteria. It's got to be beneficial to the

development in the area, etc. Because these standards are not black and white, it's not "x" number of feet or "x" number of homes per acre, it puts it in the special use permit category according to the School of Government and Emily, do you need to add anything to that.

Ms. Sloop said no, that's correct. It's the subjectivity versus purely objective standards that makes it quasi-judicial.

Mr. Simoneau said if you are wondering how is that helping, I will tell you the ordinance requires when you have a new subdivision next to existing homes, you have a 20' wide minimum buffer, but it also talks about how you need to blend in with the area. So, because of that section of the ordinance, staff explained to the developer that on the eastern property line, the 20' minimum doesn't make sense. These are homes on very large lots and they should have a much larger buffer than the minimum and so as a result of that, the developer then has now moved it off to a minimum of 60' off of that property line. So there's that language that was in the ordinance provided us the opportunity to suggest the developer create more space, try to protect the homes that are adjacent to it as much as possible.

Commissioner Munger said how in the quasi-judicial realm, as opposed to just a normal hearing, would the public benefit from that. In my mind in quasi-judicial it is very black and white. It's fact based. We have to make a decision based on the facts that are presented to us whereas we have a greater amount of leeway in a non quasi-judicial.

Mr. Simoneau said it's the opposite. If it was black and white and just not a quasi-judicial, you meet a 20' setback off that side property line, that's it, walk away. You don't have the ability to ask for well you've got very large lot single-family homes right next to you, do you really need to go with the minimum, can you get more to protect those homes. And so that's the rationale of having it as a special use permit is it's a little bit more flexibility to negotiate and design around features of the neighbors.

Mayor Aneralla said so in other words the ordinance is less stringent than what the Board or staff are asking for in this respect.

Commissioner Munger said what is the setback on this particular development, that spacing between the adjacent lots.

Mr. Simoneau said the spacing between.....what was that.

Commissioner Munger said adjacent properties.

Mr. Simoneau said it's a minimum of 20' but we mention about standards that talk about you need to develop property in a way that's advantageous to the neighbors, so that's the negotiation point where we felt like it needed to be at least 60' and in fact the developer moved it to 60'.

Commissioner Bales said I had a question around the traffic separation study, Mayes Road and 115 and what is the proposed fix for that, because if anybody hasn't driven over that, I wouldn't advise it.

Mr. Simoneau said you see the picture and anybody that drives out there will see the gouges in the pavement from vehicles that have drug.

Commissioner Bales said I've seen too many tractor trailers teetering.

Mr. Simoneau said the fix for that traffic grade separation study was to move the intersection further south close to where Coach lane is, which is right here. If you are looking at this red, so unfortunately I'm not able to show you on your screen, but you can see red line in here. It's not necessary to move it by doing this circuitous route but just to close Mayes Road with this elevation change that you have here and move it here where it's more at grade. That's the intention.

Commissioner Bales said when that occurs, that concrete between the tracks and the new intersection is going to be removed.

Mr. Simoneau said they would actually close this connection, just completely close that connection.

Commissioner Bales said and then it will loop around and then line up with Coach, is that correct.

Mr. Simoneau said that's correct. This is Coach Lane here, so this is the new apartments that are being built out at Caldwell Station, so this is the proposed connection.

Commissioner Bales said and that would be at grade.

Mr. Simoneau said correct. It's kind of where the previous stop was.

Mayor Aneralla said remember what you are.....so that's just a sidebar to what you are deciding.

Commissioner Bales said I understand that, but it is a part of the Staff Report, so I'm asking those questions. The second question that I have is that the Huntersville 2040 Plan map states that this site falls within the moderate density area, correct.

Mr. Simoneau said that's correct.

Commissioner Bales said and if memory serves I think we've kind of covered this a little bit ago, that the recommended density ranges 1 to 3 units an acre and this is half that, correct.

Mr. Simoneau said that's correct. It's 1.49 units an acre. The 2040 Plan said anywhere from 1 to 3 units an acre.

Commissioner Boone said could you put up the site plan map and this is just a procedural question for the Mayor that Marie testified that the boundary line and entrance were not correct. And Mr. Bowman testified that his surveyor was correct, but the surveyor is not here to testify, so who are we to believe there.

Mayor Aneralla said what I would say is that we have on the record a commitment from Mr. Bowman to not align the entrances and exits.

Daniel Gates said I work for R. Joe Harris. We are the engineer and surveyor, so I can speak for our surveying. As pertaining to our side of the road everything is nailed down – iron pins found, boundaries set, complete. The remaining line work outside of that is GIS download from Mecklenburg County.

Mayor Aneralla said which is not 100 percent accurate.

Mr. Gates said it's not as accurate. It hasn't been tied down. We can tie that down if needed, but pertaining to site development we usually just do the properties that we're developing and then everything outside of that is GIS.

Mr. Simoneau said just so we are clear, what you are saying is these lines here are using GIS, so if the Bjorneboes indicated that their line really should be somewhere over here, my question to you is by code you are to locate where the driveways are within location and the driveway on the Bjorneboe property in relation to your driveway is here. My question is, is that the correct location of their driveway.

Mr. Gates said that is the correct location of their driveway.

Mayor Aneralla said Bojorneboes you are welcome to ask a question of any of the staff or make a comment.

Mrs. Bojorneboe said what Mr. Bowman said is absolutely correct. The survey, everything on his side of the road is correct. The western boundary across the road of our boundary is incorrect, which means his western entrance/exit will be across from our driveway. If you will remember in what I testified to, I said the driveways were diagonally across from each other, so what they are is they are going to be side by side, like the western boundary of our driveway will be right beside the eastern boundary of their driveways going in and out of the development. I didn't say directly, I said diagonally. But our property does come up beyond where the western entrance/exit of it doesn't show it there but where our property is. He is absolutely correct. He a minute ago and I will do this, he asked that I send him that something about I don't remember all.....that I send him our survey that we just had to re-do proving where our western boundary of our property is and I'm more than happy to do that.

Mr. Bowman said if you look at Sheet C1.02 you'll see what she is describing. It's in your packet. They are offset. She's right, her western boundary of her driveway lines close up to the eastern boundary of our.....if we got rid of the median, we could move it over further, but the median is a requirement. That's why it flares out, but it is offset, so I think we are kind of on the same page.

Mayor Aneralla said it has been difficult to hear and I apologize for any miscommunication.

Mayor Aneralla said any other questions or comments. You are welcome to ask anybody.

Commissioner Boone said I'd like to make a motion to approve the Mayes Road subdivision. The Board finds that the application is complete. The sketch plan generally complies with all applications, standards, although clarification is needed on the following issues: (1) details are provided on the visual buffer proposed along Mayes Road and (2) all other miscellaneous comments on the sketch plan are addressed.

Commissioner Walsh seconded motion.

Mayor Aneralla called for the vote.

Motion carried unanimously.

Mayor Aneralla said I'll ask staff to sign a final written decision to reflect the vote and the reasoning for the decision and that written decision will be provided to the applicant and other parties with the right to such notice.

**TA21-01 – 160D Amendments.** Petition #TA21-01, Zoning and Subdivision Ordinance amendments related to State Statute 160D and miscellaneous adjustments.

Jack Simoneau, Planning Director, entered the Staff Report into the record. This is an amendment that consolidates existing city and county regulation statutes to one unified chapter across the entire state. The changes are basically technical. There are some procedural changes, but they are not substantive. We have to enforce zoning in the state of North Carolina and you have to have a reasonably up-to-date comprehensive plan. We updated ours in December, so we are in line with that. We have until July 1, 2021 to make these adjustments and again there are also some clean-up of existing provisions and we've tracked those changes. The Ordinances Advisory Board has been guiding us through this process for multiple months and recommended approval on May 6 and all the chapters of the Subdivision and Zoning Ordinances are affected. The Planning staff and the Planning Board have recommended approval at this point in time. Emily Sloop and Jacob Glass were the primary authors of these changes.

Commissioner Munger said I'd just like to take this opportunity to express my appreciation to staff for getting this particular ordinance done as I understand the amount of time and effort that was necessary to bring Huntersville into compliance with 160D and with that I would like to make a motion in considering the proposed amendment TA21-01 to amend the Huntersville Zoning and Subdivision Ordinances, the Town Board recommends approval based on the amendment being consistent with all policies of the Huntersville 2040 Community Plan as the amendment is necessary to maintain land development regulations. It is reasonable and in the public interest to amend the Zoning Ordinance because it is necessary to comply with NC State Statute 160-D.

Commissioner Hines seconded motion.

Commissioner Bales said I just want to take a quick moment to say thank you not only to staff but to the Ordinances Advisory Board and to the Board members sitting up here that worked diligently with the Ordinances Advisory Board to make this happen. It's greatly appreciated. I know it was a lot of work.

Motion carried unanimously.

### **CONSENT AGENDA**

**Resolution – ARPA Funding.** Commissioner Phillips made a motion to approve Resolution ratifying the acceptance of federal funds under the American Rescue Plan Act and associated budget amendment appropriating \$2,404,533 in ARPA funding to the ARPA revenue account and various expense accounts in the grant fund. Commissioner Bales seconded motion. Motion carried unanimously.

*Resolution attached hereto as Exhibit No. 12.*

**Budget Amendment – FEMA.** Commissioner Phillips made a motion to approve budget amendment appropriating expected FEMA revenue in the Grant fund of \$100,895.47 for reimbursable FEMA expenses of \$100,895.47 in various expense accounts in the Grant Fund. Commissioner Bales seconded motion. Motion carried unanimously.

**Budget Amendment – Community Emergency Needs.** Commissioner Phillips made a motion to approve budget amendment appropriating Community Emergency Needs contributions of \$16,176.96 to the Miscellaneous Expense – Community Emergency Needs expense account. Commissioner Bales seconded motion. Motion carried unanimously.

**Resolution – Temporary Road Closure for Special Events.** Commissioner Phillips made a motion to adopt Resolution approving the temporary closure of Main Street between Huntersville-Concord Road and Bigham Street for special events. Commissioner Bales seconded motion. Motion carried unanimously.

*Resolution attached hereto as Exhibit No. 13.*

**Acceptance of Streets for Town Maintenance – Skybrook West.** Commissioner Phillips made a motion to accept the streets listed below in Skybrook West for Town maintenance. Commissioner Bales seconded motion. Motion carried unanimously.

| Street Name       | From                         | To                       | Approx. Length |
|-------------------|------------------------------|--------------------------|----------------|
| Sunset Bluffs Cir | Wescott Hill Dr              | Cul-de-sac               | 810 feet       |
| Pineloft Dr       | Skymont Dr                   | Hammerhead               | 425 feet       |
| Skymont Dr        | Sunset Bluffs Cir            | Salem Ridge Rd           | 965 feet       |
| Salem Ridge Rd    | 160' NW of Brandie Meadow Ln | Cul-de-sac               | 640 feet       |
| Wescott Hill Dr   | Salem Ridge Rd               | 165' S of Timbergreen Dr | 330 feet       |

**Acceptance of Streets for Town Maintenance – Bryton Phase 2 Map 1.** Commissioner Phillips made a motion to accept the street listed below in Bryton Single-family Phase 2 Map 1 for Town maintenance. Commissioner Bales seconded motion. Motion carried unanimously.

| Street Name    | From           | To         | Approx. Length |
|----------------|----------------|------------|----------------|
| Roderick Drive | Bryton Parkway | Cul-de-sac | 300 feet       |

**Call for Public Hearing – Petition #ANNEX21-01.** Commissioner Phillips made a motion to call a public hearing for Monday, July 19, 2021 at 6:00 p.m. at the Huntersville Recreation Center, 11836 Verhoeff Drive, on Petition #ANNEX21-01, a request by Beverly Buchanan and Miriam Smith to annex 34.951-acres (Oak Grove Hill) into the Town of Huntersville. Commissioner Bales seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #TA21-05.** Commissioner Phillips made a motion to call a public hearing for Monday, July 19, 2021 at 6:00 p.m. at the Huntersville Recreation Center, 11836 Verhoeff Drive, on Petition #TA21-05, a request by Metrolina Greenhouses, Inc. to allow dormitories as a special use permit in the Rural and Transitional zoning districts subject to specific criteria. Commissioner Bales seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #R21-03.** Commissioner Phillips made a motion to call a public hearing for Monday, July 19, 2021 at 6:00 p.m. at the Huntersville Recreation Center, 11836 Verhoeff Drive, on

Petition #R21-03 Billings Property, a request by Skybrook West LLC to rezone +/- 21.04-acres north of Eastfield Road, just west of the Cabarrus County boundary, from Rural to Neighborhood Residential - Conditional District for a 47-lot subdivision; (Meck. Co. PIN 02111116 and Cabarrus Co. PIN 46703589660000). Commissioner Bales seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #R21-04.** Commissioner Phillips made a motion to call a public hearing for Monday, July 19, 2021 at 6:00 p.m. at the Huntersville Recreation Center, 11836 Verhoeff Drive, on Petition #R21-04 Spring Grove, a request by M/I Homes of Charlotte, LLC to rezone +/- 62.82-acres south of McCord Road and Hagers Road intersection from General Residential and Neighborhood Residential - Conditional District to Neighborhood Residential - Conditional District for a 138-lot subdivision; (PINs 01101102, 01101110, 01101114, 01119129 & 01119132). Commissioner Bales seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #R21-06.** Commissioner Phillips made a motion to call a public hearing for Monday, June 19, 2021 at 6:00 p.m. at the Huntersville Recreation Center, 11836 Verhoeff Drive, on Petition #R21-06 North Creek Mixed-use, a request by Magnolia Development, LLC to rezone +/- 84.00-acres south of NC 73 and Davidson-Concord Road intersection from Rural to Highway Commercial and Traditional Neighborhood Development - Conditional District for a development consisting of 42,500 commercial sq. ft., 376 multi-family units, 71 attached single-family units and 82 detached single-family units (PINs 01107311, 01126101 & 01126113). Commissioner Bales seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #TA21-06.** Commissioner Phillips made a motion to call a public hearing for Monday, August 2, 2021 at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road, on Petition #TA21-06, a request by Jason Richardson to amend Article 3.2.1(e, 6) and Article 3.2.2 (e, 6) of the Huntersville Zoning Ordinance to allow detached garages in the side yard of home lots in farmhouse clusters. Commissioner Bales seconded motion. Motion carried unanimously.

**Call for Public Hearing – Petition #R21-09.** Commissioner Phillips made a motion to call a public hearing for Monday, August 2, 2021 at 6:00 p.m. at Huntersville Town Hall, 101 Huntersville-Concord Road, on Petition #R21-09 Caldwell Crossing Mixed-use, a request by CapRock LLC to rezone +/- 38.1 acres at the southeast west corner of Hambright Road and Statesville Road from Corporate Business and Transitional Residential to Traditional Neighborhood Development – Urban Conditional District for a mixed-use development with commercial, apartments, and townhomes; (Parcels:01103103, 01103204, 01103205, 01103206, 01103207, 01103208, 01103209, 01103210, 01103211). Commissioner Bales seconded motion. Motion carried unanimously.

#### **CLOSING COMMENTS**

None

#### **CLOSED SESSION**

Commissioner Bales made a motion to go into closed session pursuant to NCGS 143-318.11(a)(4), (a)(5) and (a)(6) for the respective purposes of discussing matters related to the location or expansion of industries, to instruct staff concerning material terms of an employment contract and to consider the qualifications, competence and performance of a public employee.

Commissioner Boone seconded motion.

Motion carried unanimously.

Commissioner Walsh made a motion to renew the Town Manager's contract for a period of 3 years.

Commissioner Phillips seconded motion.

Motion carried unanimously.

*Contract attached hereto as Exhibit No. 14.*

There being no further business, the meeting was adjourned.

Approved this the 19<sup>th</sup> day of July 2021.