



MINUTES
Regular Town Board Meeting
August 16, 2021 - 6:00 PM
HUNTERSVILLE RECREATION CENTER (11836 Verhoeff Drive)

1. Call to Order

Mayor Aneralla called the meeting to order.

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

2. Invocation - Moment of Silence

Mayor Aneralla called for a moment of silence.

3. Pledge of Allegiance

Mayor Aneralla led the Pledge of Allegiance.

4. Mayor and Commissioner Reports-Staff Questions

Mayor Aneralla

- Metropolitan Transit Commission meeting is canceled this month. The September agenda will have potential agreement for new bus stop enhancements.
- Huntersville Happy Hour Rotary Club donated \$2,000 to the Police Emergency Fund.
- Expressed appreciation to State House Representative John Bradford for getting the Town potentially \$150,000 for an ocular melanoma grant and also \$12 million for American Rescue Plan Act funding.
- Toured Colonial Pipeline last week. Over 1.2 million gallons have been recovered.
- Provided update on mask mandate issued by Mecklenburg County and questioned their authority to issue the mandate for other towns.

Commissioner Bales

- Lake Norman Economic Development Corporation is currently working 50 projects, 31 of which are in Huntersville.
- Hopewell High School staff and administrators toured Saertex Multicom. They are looking to do an apprenticeship program there.

Commissioner Boone

- Provided update from Lake Norman Chamber of Commerce.
- Expressed appreciation to Parks & Recreation and the Police Department for their work on National Night Out.
- School has started – watch out for kids and speed zones.

- Police Department has seen increase in break-ins in vehicles. Remember to lock cars and close garage doors.

Commissioner Hines

- Next meeting of the Charlotte Regional Transportation Planning Organization is this Wednesday. Last month the CRTPO approved the 2050 MTP plan.

Commissioner Munger

- Provided update from the Centralina Board of Delegates meeting.
- Habitat will have several information sessions in the coming months.
- Consider supporting local non-profits.

Commissioner Phillips

- Provided update from Ada Jenkins.

Commissioner Walsh

- Next meeting of the Greenway, Trail and Bikeway Commission is tomorrow.
- Next meeting of the Parks & Recreation Commission is Wednesday.
- Provided update from the Huntersville Chamber of Commerce.
- Provided update from Visit Lake Norman.
- Expressed appreciation to Parks & Recreation employee Pat Bowles who used AED to save life of senior baseball member in one of the parks.

5. Public Comments, Requests, or Presentations

BeeJay Caldwell, 14521 New Haven Drive, said I'm here about the land swap that took place at the last Board meeting. As a descendant of an enslaved African and as a former student of the Rosenwald School in Huntersville, NC, I have a personal interest in that decision. It may be a win-win deal for some, but to me and others like me, this was and always will be an injustice on so many levels to the humans who gave birth to the idea of Rosenwald Schools in order for Negroes to obtain an education. If fairness is to be considered in the equation when the town government and business and people conduct business, the people don't come out losers.

There is confusion on the parts of the people as to why the regular protocol of publishing the intended deal in the Town's local paper was not adhered to. Instead, the apparently secret deal was published in a paper not widely known to local folks, giving precedence to a developer. In a win-win deal, each party involved is to benefit in some way. In this case, clearly those who love and value our Rosenwald School will not benefit, now nor in the future. The real winner is the developer who promised at a community meeting to discuss a previous land swap that he would not seek to make any land swap deals that residents did not approve of.

Nothing lasts forever. Great civilizations – their money, prestige and power, like the one in which we are living now have not lasted. Like a vapor, they are gone and soon we will be too. Yet the story, good or bad, will live on forever in history books and in the minds of those involved.

Many who knew of this land swap and remained silent recognize in their conscience and their heart of hearts that this was and always will be a travesty.

Sue Bartlett, 857 Concord Road, Davidson, said I'm a member of St. Mark's Episcopal Church at 8600 Mt. Holly-Huntersville Road. St. Mark's is a small congregation. We are about 150 families. About 5 years ago we decided to be actively involved in ministry, not just donating money to things, but to actually get our hands involved and get to meet the people that we would like to help. We settled on

doing a teaching ministry to enable women to be self-supporting. These are women who may be homeless due to domestic violence, just simply homelessness having lost jobs, and women who are finding themselves heads of households.

We began designing a ministry, a way to help them be self-supporting and we decided to teach women to work in the food service industry. We gathered money, we applied for grants, and we built a lovely building that can be used as an event center for receptions of weddings and attached to that we were able with our grants to put in a commercial kitchen where we can teach people to work in the food service industry. We wanted the ministry to be self-supporting so to do that we sell bake goods at the Huntersville Growers Market. We also cater events at our event center. We opened in April with one student. She was unable to complete the 8-week program due to a death in her family, but we had a second session and we did graduate our first student just last week.

We found over time that our ministry has changed somewhat. We were focusing on women only who were heads of household who needed some support, but we found out with our second student that we have a gift for working with people who are not just economically challenged, but who are also intellectually challenged. Our second student was autistic. Because we are small, we only take six students at a time so we can dedicate a lot of time and effort to working with people who need that kind of time in order to learn and grow. Our ministry now is to work with persons facing challenges, either economically or intellectually, like people with the autism spectrum disorder, Down's syndrome and Williams syndrome.

I'm here tonight just to introduce us to you so that when you are out in the community and you hear people express a need for someone, that you can refer them to us. We would love to have six students all the time. Our program is now 6-weeks long. It's 6 hours a day, 4 days a week.

Tami Styer, 10225 Hagers Road. David Styer yielded his time to Ms. Styer. We are here to speak about topic 8.B, the Spring Grove Development. We are not opposed to the development and we very much appreciate the cooperation and the improvements that M/I Homes has made to accommodate our property and they have accommodated some of the other residents in our development as well.

One of the agreements that is not included in the M/I site plan that you all are approving or that you all are reviewing, is that they have agreed to a limit of disturbance for our particular piece of property from the southwest and the westernmost property lines and it includes an undisturbed buffer that ranges from approximately 35' up to about 82' and it's all approximate and could be subject to change during construction, but it's approximate. This will be basically a tree save area that has not been counted toward their tree save calculation. It's not on the site plan and to ensure that this agreement is maintained, we would like for that to be noted on the site plan, either on Drawing RZ200, which is the layout for the site plan, or RX201 under landscaping and buffering notes, just to ensure that the agreement is maintained in the event that people turn over and people change and positions change and as we go through time we just like to make sure that agreement is maintained. As I mentioned earlier, it could also be counted toward their tree save area.

We also appreciate the Planning Board's recommendation to make the east end of Hagers Road as emergency access only and Laurie Cameron, who is in our area as well, is going to talk to you a little more about that. This is a vital piece of the way the development is laid out in order to maintain and sustain the character of our neighborhood.

Regarding the intersection of Hagers Road and McCord, the Traffic Impact Analysis recommended a dedicated left-turn lane from Hagers Road to McCord and that's a good thing. Those making a right turn onto McCord will not have to wait behind the vehicles waiting to make a left turn. The Spring Grove Staff Analysis that was dated today's date, 8-16-21, was updated to include the Planning Board recommendations. It also states that the following improvements will be recommended to the Town Board by Engineering staff and that is the development will need to coordinate with McCord industrial

site, which is on the north side of McCord Road, to align their driveway with the realignment of Hagers Road. The intersection of McCord and Hagers is going to be a busy place at some point. It's also the site of the future thoroughfare for the Seagle/McCord thoroughfare to relieve a lot of the traffic coming down 115 because of that busy road.

This was discussed at the Planning Board meeting, along with the discussion about improvements on Highway 115 between McCord and Sam Furr Road. Between the Spring Grove development and the Seagle Road to McCord Road thoroughfare project and the industrial development across McCord Road on the north side of McCord Road, this intersection is becoming a very popular and a busy site. I think it's an ideal opportunity for the Town of Huntersville, the industrial development and the Spring Grove development to cooperate and develop this intersection to meet all of the needs, and I think a traffic circle is certainly an option, a synchronized stoplight with the McCord/Highway 115 stoplight, something along that line that's going to allow the continued flow of traffic through that area, because it's going to be a really busy intersection at some point.

Vickie Shew, 10219 Hagers Road. Donald Shew yielded his time to Mrs. Shew. I represent Soil Supply at 10219 Hagers Road. I would like to read a statement representing Soil Supply regarding the Spring Grove development.

Soil Supply has been operating in the Hagers Road area for over 30 years, back when Huntersville was approximately 6,500 residents and we have seen growth all around us as Huntersville has expanded. We've seen developments continually approved. Now a developer is requesting approval of a development that will be even closer to our operation than Northstone is. Do we want this development? No. Do the current residents on Hagers Road want this development? No. Do the residents of Northstone want this development? No. Change is very difficult for everyone and Huntersville has seen plenty of changes. We agree, however, that individuals should be able to develop their land. We also think that it's very serious to assess an overall plan so that the new residents of Spring Grove will not have the same situation that the current residents of Northstone homeowners have. The Northstone developers should have been required to provide a greater buffer and a fence for those residents. You can't change that now, but this is the time that you can do right by the Spring Grove residents.

We met with M/I homes and requested that three homes on the southernmost point of the development that are just 20' from our processing equipment be removed. The location of those three homes would be detrimental to Spring Grove residents, Soil Supply and also would open up more exposure to Northstone. If I understand correctly, they have agreed to do that, and we say thank you to them.

We also requested a fence be constructed the entire length of the easement on the west side of the development to help screen the community from the activity on the easement, but more importantly to keep children from playing on the easement. If even one child or dog was injured because that fence was not required, it would be a tragedy and I am sure everyone here agrees. I think M/I Homes now sees the need to build that fence.

In the interest of the future residents of Spring Grove and Soil Supply, we have requested that a disclosure statement be signed by every potential buyer that's going to be in that development that reveals the existence of Soil Supply and exactly what we do so that they are going to be aware of our presence before they purchase a home, rather than after they have purchased a home. We have reviewed a copy of the potential disclosure agreement and the wording that M/I Homes has mentioned and we agree with that wording.

We want to thank the Board members who were concerned enough about the welfare of the future residents of Spring Grove and the current residents on Hagers Road to actually come and physically look at the site or speak with us by phone. We would recommend that any site of all proposed projects in Huntersville be looked at that way. The majority of the time just viewing a plan design on a piece of

paper does not show all the ramifications of a project and how it will affect a neighborhood. We would think the Planning Board would also want to do that. We want to thank you for the opportunity to present our perspective and trust the plan changes will be required and implemented.

Laurie Cameron, 10016 Hagers Road. Bob Sellie, 9808 Hagers Road, yielded his time to Ms. Cameron. I want to thank the M/I Homes people who have listened to the concerns of the Hagers Road residents and accommodated us with a bigger buffer, removing some houses, trying to make it a positive experience for everybody. I do disagree with Ms. Shew who stated that the Hagers Road people are against this project. We would like to leave it woods, but it's not going to happen. If something is going to happen, we do support this project. I also thank the Planning Board on 7-27 for hearing the concerns of Hagers Road and adding several amendments on their proposal to accept the M/I Homes plan and the rezoning.

Basically, I want to reinforce some positives rather than just negatives. I do know that the Planning Board voted 8 to 1 in favor of accepting it with those amendments. The one nay vote was based on the 2040 Plan goal and hoping for a mixed price point and mixed-use in the Town Core. Yes, we are a designated Town Core. I'm not going to read the 2040 Plan Land Use 11.1, 11.2 and 11.3, but those considerations support a reasonable transition with existing development. The existing development there now on Hagers Road is single-family homes on acreage. We estimate the dwelling units per acre at less than 0.5. The current M/I Homes plan with the adjustments made is now approximately 2.05. That's okay. But the 2040 Plan, if they pack in apartments or condos or townhomes, would not provide us with any transition. It would not be consistent with what is already there. The 2040 Plan also notes that the Town Core, which we are in, should have public transit and walkability to retail. We don't. So while we are in Town Core, to hold us to Town Core development, seems illogical to me. The 2040 Plan cites the goal of respecting the identity and integrity of existing neighborhoods. Hagers Road has been there for 50 years. Some of the homeowners are the originals. Most of us have been there 20 or more years. I hope that we can respect the identity of integrity of where I live. I bought there for a reason.

I also want to address traffic. That's been the hardest thing to reconcile in all of this. We bought on a very poorly built black top on top of a gravel driveway to a farmhouse. There is no roadbed. Somebody, the Town, threw down some asphalt for us. Thank you, it's holding up serving 21 houses. It's not going to hold up serving another 127 on top of it.

I have sent copies of the petition signed by 100 percent of the neighbors/landowners on this street that we could access. One hundred percent (100 percent) are in support of keeping us either a dead-end or emergency access only. We could not reach two of them. One is in an assisted living center and one who owns an empty lot is out of state. We don't know how to access her. *Petition attached hereto as Exhibit No. 1.*

Come drive down it. I invited you to do that before. We are 13' to 16' wide. Two 8' cars, two standard cars, have to slow down to 5 mph with our front passenger tire on the edge of the asphalt. If we are passing a box truck or a UPS truck or a garbage truck, both of us have to go over on the shoulder toward the ditch. It can't handle the traffic. To put it into essentially a loop with this new development would be like taking a stretch of northern 115 that's two lanes, would be four lane 115 in front of North Mecklenburg. It isn't going to handle it. Another example would be to splice dial-up internet connection into Spectrum Cable. By connecting us for through traffic on both the entrance on the west side and east side, you are making us a loop in the new development. The Planning Board and fire marshal recommended the solution was to have an emergency only connector. We thought that would be hopeful. Look at 2040 Plan PS-5 where we work together that allows the necessary connectivity and I understand the logic and need for the connectivity among neighborhoods. It came to my attention on the new notes today that the Planning Department, not the Planning Advisory Board, is countering that and saying that it should be a throughfare. If we make it a throughfare, we're ignoring the fact that we bought on a farm driveway road. It changes the flavor of our neighborhood. It is going to have to be improved. We don't want it improved and built-up and who will pay for it. It is a Town

maintained street. It's not state funded. We would have to have ditches, we would have to have groundwater, we would have to have a new roadbed, we would have to have new top.....I don't know how to build a road, I'm not an engineer, but that would be at the expense of the Town and it's something that Hagers Road itself doesn't want.

M/I Homes also said prior to this proposal when we were saying is it going to have to be a throughfare that they would, at their expense, put in traffic calming devices otherwise known as speed bumps, but that would need the Board's approval. We don't really want speed bumps. We want emergency access only.

The third thing is I like the amendment that the advisory board said that in keeping with development we need to improve infrastructure on adjacent properties and look again at the Land Use 11.1, PS-1 and PS-9. We don't have sewer. I have no clout with Charlotte Water. I am hoping that the Board can put some leverage on Charlotte Water to bring us sewer, whoever brings in fiber, whatever infrastructure improvements, it would be logical when they bring it to Spring Grove, they bring it to us as well.

We've enjoyed some peaceful existence. We are ready to welcome neighbors in this area. We hope it doesn't become contentious or ugly. We are nice people, we just don't want you in our ditches in our front yards.

6. Agenda Changes

Commissioner Bales made a motion to adopt the agenda as presented. Commissioner Munger seconded motion. Motion carried unanimously.

7. Public Hearings

7.A. Conduct public hearing on Petition #R21-09 – Caldwell.

Mayor Aneralla called to order public hearing on Petition #R21-09 Caldwell Crossing, a request by CapRock LLC to rezone +/- 38.1 acres east of Old Statesville Road, Caldwell Station Road, and south of Mayes Road from Corporate Business and Transitional Residential to Traditional Neighborhood Development – Urban Conditional District, for a mixed-use development for commercial, apartments, and townhomes (Parcels: 01103103, 01103204, 01103205, 01103206, 01103207, 01103208, 01103209, 01103210, 01103211).

Brian Richards, Assistant Planning Director, submitted his Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 2.*

This is a conditional district rezoning from Corporate Business and Transitional Residential to Traditional Neighborhood Development Urban Conditional District. CapRock Development is proposing on 38.1 acres for a mixed-use development. Currently the uses are mobile homes and vacant. The proposed uses are 25,000 sq. ft. of commercial, 268 multi-family which are at market rate, 125 multi-family which are age restricted and 35 single-family homes which are townhomes, for a total of 428 units. The average is going to be about 11.2 units per acre. As you can see here, the site is primarily vacant to the south. To the north there is a mobile home facility. Just north of that facility is the historic Caldwell Station School and to the east of that is the Lake Norman Church of Christ.

In the previous slide you saw there was a large tree canopy there. In TND there is zero tree canopy required. The applicants are offering to save 19.7 percent, which is about 7.52 acres.

There are 25 specimen trees on site. They are required to save 30 percent. They are offering to save 48 percent, which is 12 trees.

As part of the application, the applicant is requesting two modifications. The first is a footprint square foot modification. In TND when you are more than 2,000' from a freeway interchange or an interchange of two major thoroughfares, your first-floor footprint is restricted to 6,000 sq. ft. The applicant is asking for a request to increase that to 8,500 sq. ft. on each of the first floors of the commercial buildings. Staff is in favor of this modification due to the fixed location of the access at the railroad at Coach and 115. That intersection cannot be moved any further south due to topography and restrictions with rail crossings and spacings, so we are in support of that.

The second modification is to allow for side yard parking at an apartment building. In the main corridor they are looking to allow for parking on the side. Staff is not in favor of that at this time. We are working with the applicant to come up with a solution that everybody can work with.

As you can see here, they provided some site renderings, not formal elevations. There are some that we received early on and in the applicant's presentation they have some upgraded and newer photos.

There are numerous traffic impacts being accommodated for in this project. One will be a second northbound lane on Highway 115. The largest ones would be closing of Mayes Road at the intersection at 115, the closing of Caldwell Station Road at 115 and a new traffic light to be installed at Coach Lane and Highway 115 into the development. To the south of Coach Lane would be a new signalized intersection and railroad crossing.

In regards to the 2040 Plan, you can see this project is proposed in a mixed-use area and there's numerous listings of support in the 2040 Plan to support this project. With all staff comments, site plan issues, NCDOT comments, Norfolk Southern comments and working with us on getting an acceptable modification for side yard parking, Planning Staff would be in favor of this project.

Michael Cox, CapRock, said I'm obviously here to talk about our proposed project, Caldwell Crossing. *Refer to PowerPoint attached hereto as Exhibit No. 2.* This is the team that is kind of behind this project. CapRock, which obviously I'm with, Irvin Law Group, and then ColeJenest and Stone.

A little bit about CapRock. The best way to think about CapRock is CapRock is comprised of kind of three main silos. There's CapRock Development, which is a traditional developer with primary focus of that kind of silo is light commercial, senior living, multi-family and then we do a lot of townhome and single-family work. Obviously, this project is mixed-use which is a conglomerate of them all. There's CapRock Building Group, which is a fully licensed general contractor, however the difference is CapRock Building Group will actually only build for CapRock Development. The idea behind that and why we have the general contracting arm is we can control quality and keep an ownership mentality as we work through our developments. Last, but not least, is CapRock Investments. CapRock Investments is kind of an investment arm that focuses on helping young, aspiring, entrepreneurs get into the trades. We are passionate about either investing in, help start, build, subcontractor trades. This is a big thing for us where we think more and more kids should be excited about the trades and we think there's opportunity, so we are investing in that.

This is the general timeline of our project. I don't think I necessarily need to go through it, but obviously we are here and started about May 3 with our submittal.

In looking at this project, Caldwell Crossing, there's a few things that we do as a developer anytime we go into any new project. The first is conserve where possible. We are not ever of the approach where we are just trying to flatten a site, basically build a parking lot, get density as high as we can. We like to preserve and try to make it as pretty as possible. The tree canopy preservation requires a zero percent save. We're saving about 20 percent of that. For specimen trees, the minimum requirement was 30, but we're saving approximately 48 percent. That's where for us conservation is important.

The second, foster community. Another way we word this in-house is to be a good neighbor. If there's opportunities to meet with your neighbors, be a part of them, do things that are above and beyond, that's important. What we have done is especially near the school and the church is we've gone above and beyond the setback requirements. We've gone above and beyond the vegetative screening requirements to try to make sure that as you see those two facilities from one another's point of view aesthetically it's as minimal impact as possible. Obviously, there's going to be an impact, but we try to do a good job of going above and beyond to fix that.

Connectivity. For this project, we are working with Carolina Thread Trail and we will build out approximately 1,250 linear feet of the pedestrian walkway along 115 and then last, but not least, we will build out approximately 1,500' of what will hopefully be the Church Street Extension.

Bolster accountability. For CapRock, any development that we go into, we plan on building it, owning it, operating it. Obviously, there's a for sale component of this that wouldn't be the case on the operating side, but for us we take an owner's perspective anywhere we go. We want to build it quality, we want to build it to last, we want it to be aesthetically pleasing to the residents that live there, as well as the community around it, and so accountability for us with an owner's perspective is key to any of our developments.

Lucas Shires, ColeJenest and Stone, said we are land planning and civil engineering firm out of Charlotte. I do want to call out that we are in a mixed-use center that supports a mix of housing types including apartments, townhomes, cottage homes and age restricted. Mr. Richards so kindly outlined in his Staff Report the different policies that make our plan consistent with the 2040 Community Plan. One of those is the age restricted housing and the mix of housing which we have provided.

I would like to talk briefly about specifics of the plan. As you enter coming in off of Statesville Road, you would enter in there with Coach Lane. We are contemplating some commercial space there, which would be next to the future location of the CATS station. Whether or not that comes, that is what we are working with right now and the 2040 Plan does contemplate that station coming in the future. Just to the north, as you go through the roundabout, you will see multi-family units. Those will be market rate housing and as you move on north, that is where we have located our age restricted housing and then the yellow smaller lots are townhomes as you transition into the northern edge, the more Rural uses with the school and the church. Our townhomes do front the Seam Trail, formerly known as the Mooresville to Charlotte Trail. That will be a 12' multi-purpose path.

I want to talk quickly again big picture, so we are constructing a large portion of that Seam Trail. Vehicular improvements, Mr. Richards did talk about this, so we are contemplating closing the Mayes Road rail crossing, the existing Caldwell Station crossing, and then adding a new one at Coach Lane. This is the CRTPO adopted alignment that you see in dash there, which connects Huntersville to Davidson, so this site does construct a very large portion. It will eventually tie in down to 73. The dashed yellow is preliminarily how we will connect into Mayes and in the future down to 73.

A couple of renderings. This is on the northern road looking at the age restricted multi-family as the terminus there, with townhomes on the left and multi-family on the right. This site plan is looking south towards the roundabout. At the top right you can see the two-story retail and the stub at the end is looking towards 73, that future connection. This plan is looking towards 115 that runs parallel with the top of the page. You can see the commercial and then the multi-family in the foreground with a nice amenity. We are proposing a roundabout to help calm traffic. It's a minor thoroughfare per the CRTPO. We've worked with them and the Town on developing the appropriate cross-section and you do see it is a divided median street section there.

Commissioner Hines said the rail line.....approve that crossing as long as the other two are closed.

Mr. Cox said no. The update on Norfolk Southern is off the record. Their feedback has been positive to the closing of those two for the opening of this one, with the thought being the hazards that those two crossings currently pose with the elevation kind of gain and loss, tractor trailers getting stuck, we are still waiting for formal approval or comments from Norfolk Southern. They had internally a retirement that's holding up one person to review that. At this point we've reached out in a number of ways, but don't have the formal comments back for the actual approval of that.

Commissioner Hines said let's fast forward and say they approve that, and you build the new crossing. Would there be any improvements to Caldwell Station Road. All the traffic would be funneling through from current Mayes Road down Caldwell Station Road through your development to the new access point, is that correct.

Mr. Shires said that's correct. The TIA does call out improvements to the existing Caldwell Station. I would think that, yes, traffic would circulate there until the actual crossing can be deleted and the thoroughfare completed up to Mayes Road.

Commissioner Walsh said I did have a question about the parking, but it sounds like we're working to take care of that and I encourage you to work with staff on that. Can you go over the trail connection again – how long, where it's at.

Mr. Cox said if you look along 115, you will see kind of a path that runs parallel to that.

Commissioner Walsh said are you talking about dedicating or actually building it.

Mr. Cox said our intent is to build it out. It's approximately 1,250 linear feet.

Commissioner Bales said in looking at the density 11.23 units an acre, is that considered Transit Oriented. I know that the station is supposed to at some time be built.

Mr. Richards said Transit Oriented would be higher, about 20 units an acre. At 11.2 it's TND. Across the street you've got Caldwell Station that takes into account numerous single-family homes and that's at 8.43 units per acre and to the east we have the Palillo development.

Commissioner Bales said so this fits for mixed-use.

Mr. Richards said correct.

Commissioner Boone said when you met with the church, can you give me any feedback of how that meeting went.

Mr. Cox said I've stopped in there a number of times to discuss the project. All conversations

with the church have been great. We have not met in a formal setting with the pastor about this. However, the feedback from the church and what I've heard from other colleagues that have met with them is that they are excited potentially about the idea that this could help grow the visibility and size of their congregation. My conversations have only been positive with them.

Commissioner Boone said as you are going north on 115 there is a concrete block that looks like an old railroad loading dock. It looks like that's where the greenway might go. What's your plan for that piece of possibly historic property.

Mr. Cox said I think you might be talking about on the southern side or potentially just off our property. Obviously, if it's designated historic, we'll work through that. At this point in time, I don't have a good answer if we are impacting it and exactly what that looks like.

Commissioner Boone said your For Sale sign is about 20' from it as you are going north on 115, it's on the east side of the railroad.

Commissioner Phillips said I was hoping you guys could consider doing maybe dedicated retail, not just commercial in some spots. I know we can't make an ask, but that's just stuff in the past that has come up. And then maybe potentially dedicated affordable senior units, just things that come our way that we hear about often.

Mr. Cox said commercial I know it's been asked already about our thoughts here. We view the commercial today as more of neighborhood services, so dry cleaners, maybe a coffee shop, things that the residents locally can use and would need. On the designated seniors, especially based on income bracket, I don't know that that's something we have discussed. There are other buildings in our portfolio where that is explored. I will definitely take that note back to our team and talk through it. Obviously, we would have to think through and just kind of plan it out, but yes we will be happy to bring that back and brainstorm on it.

Michael McCurry, Elder at the Lake Norman Church of Christ, 17634 Caldwell Station Road, said our church has been a part of the Huntersville community for over 25 years and we have about 120 members. We are very active in the community, including things like our annual giveaway day where we give away free food and things to the needy in our community. We also have a very active ministry that reaches out to the Huntersville Police Department and a very close relationship with HPD. Churches are a very important part of Huntersville and we ask your consideration in not allowing development to have a negative impact on our churches. We believe that this proposed development has potential to be very positive for the Town of Huntersville and for our congregation if done correctly. We have actively engaged with CapRock, even providing free usage of our building for the community meeting that was held in June. However, there has been some turnover within CapRock. The gentleman who we were dealing with has left the company. However, we are very concerned about the impact that this change will have on access to our building. Like a commercial business, easy vehicle access is key to the ability of a church to attract visitors and remain vibrant. The current configuration of this plan will make it significantly more difficult for our visitors and members of our congregation traveling on 115 to access our property, particularly those that live north in the Mooresville area and in the Denver area coming on 115 to access our church. The current configuration will require traffic to weave through this residential development to get onto our property and we are concerned about the impact on our visitors, on our ability of people to access our property and as well as the residents of the development. I'll cede the remaining portion of my time to David McDonnell now that I've explained the why of why we are concerned, and he'll talk a little bit about the what in what we would ask.

David McDonnell, 13418 McCord Road, said I'm a member of the church since 1999. The current road access plans cause significant issues for the church, visitors and members

specifically cutting access off from 115 at Caldwell Station and at Mayes Road. This will force traffic onto the small street that hasn't been approved by NCDOT for improvements at this point in time. We are requesting that a connection point and driveway to our current parking lot be made on the proposed east side of the property. We would like to discuss this with the developer, but we haven't been able to get a hold of him.....no return phone calls from Mr. Cox. The new connection on the east side would be right over existing septic field, so we are asking if there's going to be infrastructure provided for the current residents and for the current church building on the east side or some sort of connectivity to this Mecklenburg storm water system. Our property is currently limited on impervious space. We are at the maximum, so anything we do, adding roads or anything else, is going to cause us additional money to build a BMP or a SCM to handle the storm water on our property. We are asking for some sort of connectivity to the proposed site so that we can share in that storm water mitigation. We are asking if we can connect to the developer's sanitary storm water system. We are asking if we can connect to their BMP or SCM systems. Again, the money is not in the church's budget and any money that we spend on that would have to be removed from our existing community service and outreach. As I mentioned a second ago, we've tried to contact the developer a couple of times. I've got his cellphone number and he still has not responded to any of my calls. We purchased about \$80,000 worth of land along Caldwell Station Road to give us frontage on 115 for exposure. We spent \$35,000 in putting a sign on the frontage on 115 on the other side of the railroad tracks and so we've got a lot of money invested on 115 and now the residents and the visitors are going to have to figure out how to get through the neighborhood and then add additional traffic to the neighborhood in order to get to our church building. We are asking that the development not be approved in the current presentation. We are asking that we meet with the developer and get these issues resolved or figure out what we can do to get it resolved. We don't see this as an improvement of the community by adding additional traffic to Mayes Road and to Caldwell Station Road. Long term we are not opposed to the development once we get these issues resolved. The other question is what happens to the spike strips along 115. They are not mentioned in any of the developer's plans. There's no mention of maintenance of those along where the loading dock station is of the old train station depot. None of that information has been provided. We are wondering about those spike strips. They are not under contract, they are not listed in the lot numbers or the property ID numbers. The infrastructure.....where is it going to come from. It mentions they are hoping it will come from the east side of the property or alternate route would be go across 115. It's cost prohibitive to go across 115 and the railroad tracks. It's already been tried by several other developers. Finally, we are asking that you deny the plans based on their comment that they are trying to be a good neighbor. We're just asking them to meet with us so they can get these improvements included and then we would be in favor of the proposed development.

Commissioner Munger said can you give me what the price point for the apartments, for the townhomes and for the senior living would be.

Mr. Cox said I don't now the answer to that at this time. It would be market rate. It hasn't been determined at this point.

Mayor Aneralla said I suggest you get up with the church.

Mr. Cox said Mark Mahoney was the lead developer on this. Mark is no longer with us, so I have picked up this project. I've got a feeling that maybe you are calling Mark's cell phone, but I'm happy to stay here as long as you need.

Mayor Aneralla said we have contacted Charlotte Area Transportation System and told them if this should get approved, they should put a bus stop here. However, as we just heard previously, it's taken quite some time to get some other enhancements, but at least they are aware of it.

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

7.B. Conduct public hearing on Petition #R21-08 – Beltway Industrial Conditional Rezoning.

Mayor Aneralla called to order public hearing on Petition #R21-08, a request by the property owners of Parcels 01704216, 01704208, 01704225, 01704220, 01704228, 01704209, 01704207, 01704227, 01704226, 01704210 and 01704215 to rezone the subject properties from Corporate Business to Corporate Business Conditional District to modify the ordinance buffer requirements for the proposed industrial development .

Brad Priest, Senior Planner, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 3.* The application is a conditional rezoning plan, preliminarily entitled Beltway Industrial Conditional Rezoning. The applicant is Strategic Capital Partners.

The property in question is in between Hambright Road and Alexandriana Road along the west side of I-77. The property in question is wooded. It's got SWIM buffers going through it. We did a little context map here where you can see the proposed site plan in relation to surrounding development. It's located to the south of that parcel where the CATS Park and Ride is proposed there near the corner of Mt. Holly-Huntersville and Hambright.

The proposed rezoning plan here oriented north and south and so you can see the true orientation there. Over a million square feet of office, warehouse and industrial distribution type uses. Currently three buildings are proposed on three different lots. A major subdivision is proposed with the street for the buildings to front on per the Huntersville Zoning Ordinance requirements. The rezoning would be from Corporate Business to Corporate Business Conditional District. The modifications are requested only to change the buffer requirements. No uses would change. It would stay Corporate Business, but they are looking to modify the requirements of the I-77 buffer and also the interior buffer along the new public street.

Just a quick note here and this was in your Staff Report as well. This is the public hearing continued from July. The ordinance actually says that we can't have updates at the actual public hearing three weeks before the public hearing. The applicant has submitted some updated plans last week. Staff has continued to look at those, but at this time we couldn't forward that new plan to the Board based on the ordinance requirements there. This is based on the old 7-19 plans, so a lot of these comments that I will briefly go through, because again some of these have changed, some of them will be updated by the applicant in the updated plan.

The rezoning site plan issues that we are currently looking at right now. SWIM buffer disturbances. One of the issues that we will be dealing with a text amendment that will be coming before the Board and the public hearing is actually for tonight, is to change the way that SWIM buffers or water quality buffers for streams are handled in the ordinance in the Corporate Business zoning district.

Currently, in order to build and disturb and fill on a stream for an intermittent stream, you have to go to the Board of Adjustment and then mitigate for water quality purposes through the ordinance. What the applicant is seeking to do with a text amendment, as will be discussed, is to change that to with mitigation use the conditional rezoning process as a review that would allow that disturbance. Currently the ordinance is still as it stands and that is an issue that we are working through with the applicant right now through that text amendment process.

An updated Traffic Impact Analysis was submitted late Friday. Staff has not gotten a chance to

review that, but that was submitted, so we are going to try to take a look at that and get that reviewed.

Again, as mentioned, the buffer modifications that are proposed along the interior street you see the maps before you. The overall design of the site is to have an 80' buffer for most of the interior street, but where they don't have it, it's pinch points. Small areas that would go from 15' to 20' at certain areas, not the entire scope, but in certain areas where they can't make the 80' work. That's the current proposal there. Also, the I-77 buffer is similar. They are going to keep the 25' along 77 existing vegetation but then disturb and replant 25' closest to the development is the current proposal.

We are working on the tree mitigation plan to get a plan that shows specific plantings to meet the mitigation requirements of the ordinance.

Rezoning notes – the plan that is currently submitted has rezoning notes that show complete flexibility administratively. Staff recommends that only minor revisions to the plan be administrative. Any complete redesigns would have to come back before the Board for those changes.

The current plan that was sent for the public hearing does not have street trees and sidewalks on both sides as required by the ordinance, however taking a sneak peek coming attraction of the updated plan that was submitted does have sidewalks on both sides of the street per ordinance requirements.

These are not issues per se, but just fyi in regards to changes that were made based on long-range plans. The greenway location. If you see the top pictures that are shown, Mecklenburg County has the greenway going rather than through this property, it goes up Mt. Holly-Huntersville Road and down Hambright, around the property in question. Our current greenway plans show the property going through the stream that transects this property. It's our understanding that Parks & Rec is wanting to update our plans to match Mecklenburg County. Staff is comfortable modifying the plans so the applicant does not accommodate the greenway through this property.

Block length – one thing we wanted to mention, the ordinance does require that for industrial properties a maximum of 1,500' is established for block length and so the block length is broken up more usually because what's proposed is I believe 2,000' around that area, so what staff is comfortable with is if you look at the plan, the context map to the south, there's not really an opportunity for further break-up of the street. East, you've got I-77, so they are not putting a street on I-77. To the west you have a cemetery, so you don't want a street there. Then you go to the north following up that interior street, there's a BMP, there's a stream and then in the circled area in the red, that's really the first opportunity that you really have to break-up that proposed street, so staff is find modifying the block length requirement as well through the conditional process.

An update in regard to Hambright Road and a connection there. It was brought out in your Staff Report, the Charlotte Area Transit System (CATS) is proposed and funding to put a park and ride system right there to the north on Hambright Road. If you see in red, there is a private drive that is proposed to really function like a public street and to stub at the applicant's property to the south. What staff has been working with the applicant and CATS on is trying to get together and make a full public street connection from Hambright Road to Alexandriana. That's currently in process, so we are still working with the applicant on that.

Staff is supportive of the application and the reason for the application in order to modify the buffer requirements. We're just working on some of the conformance issues, the TIA with the ordinance and we'll get that worked out by the time the final plan comes around.

Commissioner Walsh said I'm glad to hear there are going to be sidewalks on both sides. With regards to the block length, is there any way to break that up with a traffic circle or something like that to kind of slow things down a little bit.

Mr. Priest said that's something we could discuss with the applicant. What we were talking about mainly was with regard to having a stub and having connection from the street perspective. As far as traffic calming, is that what you're looking for.

Commissioner Walsh said I think you said they are looking at 2,300' and maximum is supposed to be 1,500'.

Mr. Priest said that's correct.

Commissioner Walsh said is there any way to put something down that 2,300' to slow people down a little bit.

Mr. Priest said I can discuss that with staff and with the applicant and we can try to see what we can do to break up that long expanse.

Susan Irvin, representing the applicant Strategic Capital Partners. *PowerPoint attached hereto as Exhibit No. 3.* One of things that I wanted to mention about Strategic Capital is just the amount of experience and the amount of assets that they have. The developer, owner and operator of more than 9,000,000 sq. ft. of office, industrial and mixed-use. Right now their properties are valued at almost \$1 billion throughout the country. They are generally built to suit and master planned, but the more important thing is kind of where they have located. Their focus over the last 5 to 7 years has been on industrial space. Right now they have built about \$450 million worth of Class A industrial properties.

Here are three properties that are nearby. This first is Patriot Park in Durham, NC. With all three phases they are at about 900,000 sq. ft. Rock Hill Commerce Center in South Carolina, that is currently being developed. You can see that is focused on manufacturing and distribution. The Phase I of this is two buildings over 800,000 sq. ft. Mooresville, NC, the Forty540, is a little bit different. It is a Class A office development, 400,000 sq. ft., two 5-story buildings, a mix of offices and uses in the Research Triangle area.

Just to give you a little introduction into this company. I think Brad has already really covered the key location of this property, at an intersection of some major thoroughfares. The areas surrounding it are very conducive to what we are proposing. This gives you some good kind of additions to what Brad had mentioned as far as what the surrounding uses are. I know we have all driven around here and are familiar with it, but just not seen it all as one piece.

This is the CATS Park and Ride area that Brad mentioned. I want to talk a little bit about the economic development employment center base and kind of the importance of that to the economic impact of Huntersville. We use the IMPLAN program. As you all know that's a program that is used by Lake Norman Economic Development Commission but also cities, universities, counties, all over the United States. It is a model that estimates the economic impact of a project such as this. What we have done in our analysis is really limited the impact just to Huntersville, so we could look at Mecklenburg County. We could look at a larger area. We are focusing only on the economic benefits to Huntersville here, and you look at direct, indirect and induced. The construction benefits under this economic model total \$148 million plus. This is just the construction benefits. The yearly operational benefits are about \$83 million. And again, just the benefits to the Town of Huntersville zip code 28078.

This is our timeline just to give you all an idea of kind of where we started and how we got to

where we are now. I am going to ask Austin Watts of Kimley-Horn to come up and talk a little bit with you about the changes that were submitted in this last revision.

Austin Watts, Kimley-Horn, 200 S. Tryon Street, Charlotte, said as Brad alluded to in his presentation, the latest iteration of plans have addressed a large percentage of the comments he had, in particular some of the bigger ticket items such as making sure that the new public road through the center has both street trees and sidewalks on both sides of it. We are continuing to work with staff on landscaping and the interaction between the buildings and the buffers to make sure that the staff is happy with that. And then we are also working with the developer and with CATS to extend the public road all the way through over to Hambright and the latest iteration of the TIA takes that into account.

This is simply the landscaping plan. It has 80' buffer as Brad mentioned, with pinch points in some areas to help maximize the site. This is simply a site plan. This shows a couple of perspectives, because obviously as we are wanting to modify buffers people want to know what's it going to look like. Each of these sections was taken throughout the site. We've got two per location. One is showing at the time of planting and then one a little bit later, whenever the material is more mature. This simply shows some of the pinch points to where we are beefing up the vegetation in some of the places where we are less than the 80'.

These are simply the TIA recommendations. These have not yet been vetted by staff. These were submitted last week based on the updated scope that was coordinated through the Town and through NCDOT, so this is what the report currently states and there is still going to be some discussions with both NCDOT and Town staff.

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

7.C. Conduct public hearing on Petition #TA21-10 - flexibility for CB/SP/CI buffers along public streets and rights-of-way.

Mayor Aneralla called to order public hearing on Petition #TA21-10, a request by the Huntersville Planning Department to amend the requirements of Article 7.5.3 of the Huntersville Zoning Ordinance to allow flexibility for CB/SP/CI buffers along public streets and rights-of-way.

Brad Priest, Senior Planner, said the current ordinance requires an 80' buffer in the CB, CI and SP and districts along the property lines if it's zoned differently than CB, CI or SP. But, also in the footnote, it's required along the right-of-way. That's a second part where it's required. What's being proposed is to reduce that.

Applicants in the Corporate Business zoning district have come forth and asked for conditional rezonings to ask the Town Board to modify that 80' buffer to something that is less, because what you are seeing and what you have probably seen come before the Board several times are these very big buildings that have a very neat, flat footprint and so that takes up a lot of space and then having 80' buffers along the entire perimeter really cuts into the usable space, so they have been coming and asking for rezonings. Along with that, we look at the 2040 Plan, Policy LU 7.1 also recommends some flexibility for employment centers which the Corporate Business zoning district is the primary zoning district for our employment centers, so they recommended some flexibility in the frontage requirements and therefore in the buffer requirements in the ordinance and so to try to modify that.

Here's just a glance of where our employment centers in the purple areas in the subject areas near Alexandriana, Mt. Holly-Huntersville Road, the Huntersville Business Park, Commerce Center over near where ABB was, Southwire, so those areas are applicable and this would

apply to the text amendment.

What staff has done then is put some modifications to allow flexibility based on the proposed use, what is near the street and where is the location. Is it interior to a property or is it on a thoroughfare. Those are the two questions that would be asked by this modification. The ordinance is clarified here at the very top to say if you meet the architectural requirements of the ordinance, there's no buffer along the street. And that's essentially what the ordinance says now, with a clarification and making it a little bit more clear there. The second part of that would be tiers. A 40' buffer for uses that are along a thoroughfare but don't meet the architectural requirements. Perhaps they might have parking in the front or perhaps they have just a flat wall along the street. It would go all the way down to a 20' buffer if it's interior to a business park. It's not on Hambright Road. It's not on Mt. Holly-Huntersville Road. It's not on Statesville Road, Old Statesville. If it's within a business park, less buffer would be required and would go all the way down to 20'. What didn't change, if you notice on the bottom left-hand corner, we are still talking about buffers, the requirement is still to have an opaque visual screen, so you would have a separation between the public street and the use that you are proposing to screen. That hasn't changed in the proposed language. How would that be applied. Here's just a brief example. You see a location in Charlotte here where you are along the street looking back at the building, but there's parking in the front. And then you look down here and you see maybe one of those big industrial buildings on the right-hand side they've got parking on the left-hand side of the building. They've got a truck dock and the edge is blunted up against the public street. In these two examples if they were on a thoroughfare, you would have a 40' buffer for both of those instances. If they are interior to a business park you would only have 20' for this type of development.

The other thing that we are seeing a lot of in those distribution areas is the truck dock. What do you do with the truck docks on the street side. If you are on a thoroughfare, if you have the truck dock storage area, things like this that you see on the top picture, you would not qualify for a reduction if you are on a thoroughfare and a full 80' buffer would allow. However, if you are interior, less visibility, then you would only be required a 40' buffer if you have the truck docks and the storage areas and the utility areas. That's mainly how it would be applied.

The Huntersville Ordinances Advisory Board took this up and looked at it this month on August 5 and recommended approval unanimously of the language and Planning Staff recommends approval as well.

Mayor Aneralla said I want to thank staff, the Huntersville Ordinances Advisory Board and the businesses that have been affected by this in coming up with a good compromise.

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

7.D. Conduct public hearing on Petition #TA21-09 – Allow Board of Commissioners to approve modification of a SWIM buffer through a conditional rezoning process in the Corporate Business zoning district.

Mayor Aneralla called to order public hearing on Petition #TA21-09, a request by Strategic Capital Partners to amend the Zoning Ordinance allowing the Board of Commissioners to approve modification of a SWIM buffer through a conditional rezoning process in the Corporate Business zoning district.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 4.* The map that you see before you is a map of Huntersville. It's 63 square miles. We have two major drainage basins and this picks up

where the streams are at and also picks up where some of the SWIM buffers are at so I can kind of use this to explain what this text amendment does. This is a request by Strategic Capital Partners to amend the buffer requirements. That red box I'm going to zoom into that and just give you an example as to exactly how this text amendment would work.

There is the area that was in the southern central part of Huntersville. I-77 is the large white line in the middle. Alexandriana is the southern line and everything in gray is zoned Corporate Business and you see on the right side or the east side of 77 there's a kind of a light blue buffer and the same thing on the west side of I-77, light blue buffer.

The ordinances today say that if you impact these intermittent streams or perennial streams you have to get a variance with mitigation. The proposed ordinance would allow an impact to those intermittent streams as well as perennial streams draining less than 50 acres with a conditional district rezoning and mitigation. If you impact it, you have to mitigate that.

On the eastern side, this is just an example. It's a little difficult to see, but what we have is a smaller footprint office and it just has a driveway going over the SWIM buffer which is allowed, but the building is a small footprint so it's able to avoid that buffer. Contrast that with the maps that Brad showed earlier for the project that's over 1 million sq. ft. These flex spaces are large, flat footprint. They are going to affect a lot of property and that is what we are getting here to diversify our tax base and when that happens there are going to be impacts to SWIM buffers. What I've shown here in red is where the SWIM buffers would be impacted and that is an intermittent stream that would be impacted. The text amendment as proposed by the applicants, staff looked at and we made adjustments to it to fit our ordinance. We have run that through the applicant. They have agreed that those changes meet their needs as well.

It's three different sections. Section 1 basically says in your Corporate Business district as part of an approved conditional zoning, the Board of Commissioners may approve modifications to those intermittent streams or perennial streams that drain under 50 acres subject to implementing one of the nine mitigation techniques in 11(b) below. If somebody impacts it, they will have to mitigate it and they have nine options.

Section 2 Option (5) is just to clarify the language in there just to simply say if you are going to preserve Bottom Land Hardwood Preservation at a 2:1 acreage basis which is an accepted mitigation, just clarifying that the mitigation has to be above and beyond what we require to be preserved anyway.

Section 3 simply indicates that in addition to a variance, you could also achieve an impact to a SWIM buffer if you comply with 8.25.10 which is the section that they are amending.

Staff recommends approval of this. The Ordinances Advisory Board on August 5 recommended approval 8 to 1. Water quality is very important to us. From 2003 to now, even with all the growth we've had, our water quality has actually improved. We have run this language through Mecklenburg County Water Quality. They, too, agree that the change is acceptable.

Commissioner Walsh said I think you said there's nine ways to mitigate. Can you just give me an example of one of those mitigations. I think it's a good idea. We are protecting water quality, but just an example of a mitigation technique.

Mr. Simoneau said here's an example – Section 2, No. 5, you can use Bottom Land Hardwood Preservation. There might be properties that you are not required to preserve and the developer could preserve on a 2:1 basis if they impact a SWIM buffer 1,000 sq. ft. they might be able to save 2,000 sq. ft. of tree save in these Bottom Hardwood areas that they would not have otherwise been required to preserve.

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

7.E. Conduct public hearing on Petition #R21-06 - North Creek Village Mixed-Use.

Mayor Aneralla called to order public hearing on Petition #R21-06, North Creek Village Mixed-Use, a request by Magnolia Development, LLC to rezone +/- 84.00-acres south of the 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., 339 multi-family units, 66 attached units and 77 detached units (Parcels: 01107311, 01126101 & 01126113).

I have a letter that the applicant would like to continue the public hearing.

Commissioner Walsh made a motion to continue the public hearing for Petition #R21-06 until September 20, 2021, at 6:00 p.m. to be held at the Recreation Center.

Commissioner Phillips seconded motion.

Motion carried unanimously.

8. Other Business

8.A. Consider decision on Petition #TA21-05, Metrolina Greenhouses, Inc., to allow dormitories in the Rural and Transitional zoning districts with a special use permit subject to meeting specific criteria.

Jack Simoneau, Planning Director, said this is the request to amend the ordinance allowing opportunity to apply for a Special Use Permit for dormitories for in this case H2A housing and this shows the 1,000 acres that's under control by Metrolina Greenhouses. They have Transitional Residential, Rural and Special Purpose zoning on their property and this is going to be asking for a Special Use Permit for dormitories in the Rural and/or Transitional zoning district. The red blocks that are there are just to kind of represent where possibly it could go in the Transitional district and the Rural district. It just depends ultimately where the applicants want to go with this. This is the overall zoning map that was in your agenda packet. I enter the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 5.* That shows just kind of what properties qualify in the Transitional and the Rural to apply for a Special Use Permit.

In your agenda packet we kind of color coded the text amendment. Everything in black was what was at the public hearing. What you see in red was new changes that were added as a result of the public hearing. You will note that under 9.62, the first thing that was added in red was the dormitory be located on a bona fide farm of at least 100 contiguous acres and is on land being farmed by the occupant. That kind of came out of the public hearing. The Planning Board further elaborated on it and that they are farming it on a full-time basis, so they are not going to be working one place and then jumping to another place. That was a change that was added. Also, added as a result of input from the public hearing is No. 8, the dormitory cannot exceed two stories. The Planning Board further elaborated the dormitory cannot exceed two stories in height or exceed 15,000 sq. ft. or five total buildings. They also added that building and housing will be constructed and maintained to meet H2A programs or similar federal programs applicable at the time. This new language was run through the folks at Metrolina. They have no problems with it from the addition at the public hearing as well as the Planning

Board and the applicants are here to answer questions. The Planning Board did recommend approval as did the Huntersville Ordinances Advisory Board.

Art VanWingerden, Metrolina Greenhouse, 16701 Huntersville-Concord Road is residence, 16400 Huntersville-Concord Road is where the business is.

Commissioner Walsh said the facilities, you mentioned previously that they are going to be inspected. Who are they going to be inspected by.

Mr. VanWingerden said with H2A housing the way it works we have to be inspected 30 days before anybody moves in, so let's say everything goes well and we have these done by January 1 of next year, then we have to be inspected and then 30 days later our H2A employees can move in and then each subsequent year we have to be inspected by the Department of Labor to make sure those houses are in good shape, livable and good for H2A housing and that they meet all the standards that they have. That will be done every year 30 days before they move in. If they don't pass, then we've got to wait, fix whatever they say to fix and then again that 30-day clock starts the day they approve it.

Commissioner Walsh said how many US Department of Labor inspectors are there that are doing these inspections.

Mr. VanWingerden said I have no clue.

Commissioner Walsh said I believe that you guys run a great operation there. It's the unintended consequences that may be a less reputable person that might use this, because there are a number of issues with this kind of housing inspection. It's my understanding that there are two inspectors in the southeast region covering eight states and that they don't get to all of the inspections they are supposed to get to. The other question I would have is close to Huntersville are there any of these H2A housing.

Mr. VanWingerden said there is one, Patterson Farm. They've been doing H2A housing for over 30 years and they've had H2A workers for over 30 years, they've had buildings there for over 30 years. One of the guys that works for us, one of our managers, his dad runs that whole program up there, so we actually went and looked there. That was actually the first place we went and looked when we were looking at H2A five or six years ago when we first started talking about it. Like I said at the public hearing, our whole goal all along has been to have a local workforce. That's what we want. We have 700 full-time local residents that work at Metrolina just at the Huntersville location and this is just more for the seasonal aspect of our business. Like every other business we're having a hard time getting seasonal people. And it doesn't matter what we pay, we're having a hard time getting people.

Commissioner Bales said can you talk to me about where you are wanting to locate it.

Mr. VanWingerden said where we are looking at is right there, right where that H2A is. The reason we picked that, if you look right there, there's a fire hydrant. That's our water for the site. Sewer is right above the A is where it's at. That's our sewer tap and our water tap. Obviously with 100 people being there for 10 months you can't build a sewer system for that. The state's not going to allow that, so we have to be on city water and city sewer. If we do it where the Rural area is, our closest point even though there's a fire hydrant here, because you have to go under a creek to do it, City of Charlotte is not going to do that for us. We are going to have to do that. They are not going to allow us to go under a creek. The closest tap is right there and it just got put in last week because it's for the greenhouse. I measured it out today, it's over 12,000' to get here. We've spent 2-1/2 years trying to get that water hooked up. We built this greenhouse right here. It's what we call MX5. I have a breakroom in there that has plywood over the doors, because I have bathrooms that have been finished for two years. I

can't use them because I have no water or sewer yet. It's coming, we'll get it hopefully by the end of this year. Obviously COVID didn't help anything with this. Our employees that work in that area are having to use porta johns is what we have there for them right now. That's part of it. That's just the way it goes. But for us to do this and do it right, we want to be near city water, city sewer. Where I'm putting it, we are going to be within 200' of the Rural district anyway. I know it's not Rural, but it's within 200' of it. If we had known two years ago when we bought this property we were even thinking about putting it here, I would have went ahead and rezoned that to Rural or made it Rural as we bought it, but we didn't do that. That's why we want to put it in the TR. It's not for any other reason but water and sewer are feasible and close.

Commissioner Bales said Metrolina is agricultural farming. Is farming agricultural allowed in Transitional Residential zoning.

Mr. Simoneau said yes, it is.

Commissioner Hines said if this is approved and you place one of these facilities where the H2A is and TR, approximately how far away is that from the residents there on Sims Road and it looks like some private easements.

Mr. VanWingerden said I actually did that today. It's 1,700' from the closest home.

Commissioner Hines said there would be a cluster of up to five facilities.

Mr. VanWingerden said right now our plan is to build between three and four because it's 100 per building. We have 100 H2A workers that will be there 10 months, January 20 to November 20 roughly. The other 200-250 will be there 90-120 days during our spring rush. When we are down to 100 we are still going to put 25 or 30 in every building because the building does much better when somebody is living in it as opposed to nobody living in it. We are going to make sure there's somebody in every building for 10 months that they are there. Two months nobody's in it, because with any H2A you have to have a two-month break between when they leave and when they come back. H2A is a lot different than I think what people have in their head when they really think about it. These are families that come over – dads and uncles and brothers and cousins. They are living their dream is what they are doing when they are coming to America. They are coming here to work for 10-20 years, make money while they are here working obviously. But once they do that for the 10-20 years they go back to either Mexico or Guatemala, Honduras, wherever they are coming from and they are living the life in that country then. They get them 5-10 acres of land, build them a house and they are good to go. They are making about 8-10 times what they could in their native countries.

Commissioner Walsh said when you were mentioning the water coming off of Huntersville-Concord Road, you said there's a creek and you can't go under the creek. Can you go over the creek. How do we get water.

Mr. VanWingerden said that's going through community encroachment, FEMA, floodplains, all kinds of stuff. We can't dig in that. That's not allowed. The only other way for us to do it is go up Huntersville-Concord Road, then take a right on Huntersville-Concord Road, and then go down Bradford Drive which would be an even further run for us to do. Nobody is going to allow us to dig along the road to do that. For us to get water we're either going to have to get.....if we did it in the Rural we would have to get some type of main water line to Bradford Drive, which is going to be about 8,000' of run from either side. I just don't know if Charlotte is going to do that. Where they tapped where we are at right by the bridge, right when you go past Metrolina, go over a bridge, that's where the water tap is at. They had to run that line 200' because the Skybrook development was already there.

Commissioner Walsh said if we had a community there, they could not run sewer to the community because there's a creek there.

Mr. Simoneau said it would have to be engineered. If you pay enough money you can get water and sewer a lot of places.

Mr. VanWingerden said just on that we've spent over \$350,000 with CMUD trying to get water to our site now as it is. Our bigger thing is the 2-1/2 to 3 years that it has taken.

Commissioner Bales made a motion in considering the proposed amendment #TA21-05, the Town Board recommends approval based on the amendment being consistent with the LU-1, LU-10, and EV-2 of the Huntersville 2040 Community Plan. Also, making this approval contingent on the modifications that the Planning Board also recommended and that it's my understanding that the applicant has also agreed to. It is reasonable and in the public interest to amend the Zoning Ordinance because it provides a Special Use Permit option for the Metrolina Greenhouse workers.

Commissioner Hines seconded motion.

Commissioner Munger said it's not about your specific scenario in terms of where that housing is going to be. I believe you'll do a great job with it. It's what's next. For me, opening that door to Transitional Residential throughout Huntersville and having the ability for that type of housing to be close to neighborhoods, and I realize again yours won't really necessarily be 1,700' basically a third of a mile should be plenty of space, but we have to think about what happens the next time. Did we open Pandora's box, did we make a fatal error by doing this. I would like to make an amended motion in considering the proposed amendment #TA21-05, the Town Board recommends approval with the modification of limiting the availability of the Special Use Permits for the use in the Rural Zoning District. The amendment, as modified, is consistent with the 2040 Plan and Policy EV-2.

Commissioner Walsh seconded motion.

Commissioner Phillips said could you clarify how many properties the TR/Rural 100 acres impacts. Wasn't it six.

Mr. Simoneau said the Cook farm, the Strickland family, Johnston family, Bragg family and Westmoreland family. Those are the farms that are over 100 acres. Of course, Metrolina. The Cook family is zoned TR. Westmoreland is zoned TR. Bragg is not. The Johnston family is actually zoned Corporate Business, so that wouldn't qualify. The Strickland family is zoned Rural. You have a couple of them that are in the TR zone that would possibly qualify for a Special Use Permit, so that's what would qualify. Then you have to go through the process of a Special Use Permit.

Mayor Aneralla called for the vote on the amended motion.

Motion failed 2 to 4. Commissioners Munger and Walsh in favor; Commissioners Bales, Boone, Hines and Phillips opposed.

Mayor Aneralla called for the vote on the original motion.

Motion carried 4 to 2. Commissioners Bales, Boone, Hines and Phillips in favor; Commissioners Munger and Walsh opposed.

8.B. Consider decision 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 127-lot subdivision; (Parcels: 01101102, 01101110, 01101114, 01119129 & 01119132).

David Peete, Principal Planner, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 6.* This is the Spring Grove subdivision. Access is off of Hagers Road via McCord Road. It's currently zoned GR and NR-CD and the request is to take all of that land and convert it to a new NR-CD conditional district zone.

Since the Planning Board has seen this, the number of lots has been reduced by three. I think you heard that referenced in the public comments. That would change the density to about 2.02, so again just a slight dip in the proposed density for the project.

I won't go back over any of the 2040 Community Plan or any of the other relevant items unless you would like to, but I do want to show you an updated plan and there are several call-outs that I'm going to zoom in on and make you aware of.

In this area you can see that there is a driveway that has been indicated for Mr. Haigler who owns some property located there. That's a detail that will be worked out at the next level if there is an approval, but again that is not an issue for that single-family property to have a driveway.

There is a buffer that is located in this particular area and the commitment is to have 60', 40' of it undisturbed and then a solid 6' fence on the home side of the property along the future thoroughfare. That same buffer is located along here as well and that same standard of 60', 40' undisturbed and then the fence on the backside and then the three lots that were mentioned, they were located here at the Ulsten connection and they have been removed. Also, the extension of some of the streets that would have served those lots has been removed, however there is still right-of-way that is being dedicated to move off of the property and to connect into the Soil Supply property if it were to redevelop.

Lastly, the plan that you have before you tonight makes the connection to Hagers Road on the east side. The note here indicates that the Town would analyze traffic calming to be put into place, whatever is appropriate. It could be speed humps, etc. This is the transportation issues. The TIA has been accepted by the Town's staff and you can see there that there are the requirements on 115 and I can read those in detail if you'd like. Construct a northbound right-turn lane on 115 with 100' of storage. Add protected/permitted phasing to the existing westbound left-turn lane on McCord and add overlap phasing to the northbound right-turn lane on 115.

The second requirement would be at McCord and Hagers. That would be to construct an eastbound right-turn lane on McCord Road with 100' of storage and to construct the northbound Hagers Road approach to have an exclusive left-turn lane with 100' of storage and shared through/right-turn lane.

In addition, per DOT, a left-turn lane with 150' of storage and appropriate taper is required on McCord Road and the development will need to coordinate with the McCord Industrial site which is on the north side of McCord to align their driveway with the realigned Hagers Road. Final TIA approval is pending, which essentially means all the loose details would be buttoned up by Town staff and then DOT would wrap up their commentary as well.

From the public hearing, the staff's recommendations are shown here and just a few updates. I mentioned the second bullet is the TIA has been accepted. The residential street cross-

sections in front of the 52', staff has worked with the applicant to create a scenario where they provide that on-street parking for those smaller lots and that has been satisfied. We are still working out a few minor details, but we are confident that it will be satisfied and the applicants who are here tonight will convey to you that they will comply with the regulation however they need to do that.

The Caughman lot access frontage has been provided, so that is satisfied.

Note #4 on Sheet RZ-201, the needed language has been added, so that has been satisfied. Of course, they obviously still have the redline comments that are outstanding as always is the case.

There was a further recommendation to add a more substantial buffer along the Soil Supply border. As I went over just a few moments ago, a more substantial buffer has been added.

The Planning Board made their recommendation. They did vote to approve the plan as presented by a 8-1 vote. They found it consistent with the 2040 Community Plan and they added the following conditions. And then I've added a little bit of commentary based on the latest plan. Number one was to provide a written disclosure statement to each buyer that they must sign regarding Soil Supply. As of the packet that went out to you and as of the materials that I had we have not seen any of that, so I have no update or anything to show you with regard to that.

The second bullet is that construction traffic should not be permitted to use Hagers Road. I believe the applicants are agreeable to that, but again I have not seen a note to that effect. That would be something for the applicant to address.

Third bullet, the TIA would need to be resubmitted and accepted. That has happened.

Provide on-street parking requirements for the 52' lots. That is committed to and will happen.

All outstanding staff comments and redlines will need to be addressed. That's pending, but that's very typical.

The east connection of Hagers Road to be an emergency access only and not a primary street for this development. The latest plan has changed. You can see there that the plan that went out in your packet had a fire access only connection. The plan that was given to us today, it is a full connection.

The next bullet is to revisit the tree save at the creek and attempt to save additional trees. My understanding is the applicants did do some of that. They did not find any that they could identify that would be saved. They are still compliant and they have committed in the notes that if they are able through fine level of engineering that would happen at a construction level to save additional trees, they will do so. If you would like some elaboration on that, the applicants can speak to that, but the commitment is that they will try their best at the next level to save more, but they are compliant.

Conduct a habitat survey of any protected species that might be found in this particular area. An investigation was done and a report was produced by the applicant or their consultant. That was attached to your Staff Report. It did not find any active nesting sites, specifically for red-tail hawks. Furthermore, I think the report indicates what the requirements of them would be. There's a period of time, I believe it's from February to May or June where if anything happens, you really can't get in there, but I do not think that in the long-term it prohibits that development, it's just that you have to stay away at a certain time and then you have to mitigate following all of the procedures that would be involved. They are well aware of that and

they have provided that report to you.

The adjacent Soil Supply, there should be a 60' buffer to include 40' of undisturbed area and a fence. They have provided that on that side.

The only other thing that I will mention which was not part of the motion, the Planning Board also made an additional request that the Town consider adding Hagers Road to their CIP for eventual street upgrades and that they assist the Hagers Road residents in acquiring public water and sewer connections.

Commissioner Hines said what is a fire access only connection look like.

Mr. Peete said that would essentially be something that's gated. We have a couple of examples around town where it might be a reinforced part of a berm or a landscaped area with some low shrubs, something that a fire vehicle could go over without doing any damage or major damage to anything. Or most commonly you would find what's called a Knox gate where the fire department would have access to it and it would be in place and you would only use it in case of an emergency. It doesn't allow regular and daily usage.

Commissioner Hines said Hawks Landing was the subdivision approved on the backside. How many access points did they have. I know Hagers Road was the main access point.

Mr. Peete said that's correct. I don't believe it connected to Ulsten. Again, I will say I'm not going to speak for the fire marshal's office, but I will say that Hawks Landing development preceded the fire marshal's renewed critiquing of all developments to make sure that these safety issues were being adhered to. Again, I can't speak for their comment, but that development only had one entrance and it was completely reliant on Hagers Road.

Commissioner Hines said I know that in our ordinance we really believe in connectivity. Staff's perspective of it was only fire access, did that completely defeat the point of our connectivity in our ordinance.

Mr. Peete said I wouldn't go that far. I would say that connectivity is very important and it serves to create the network that we know through large road building, thoroughfares, DOT's limited ability to provide connectivity is the solution for our ability to get around, especially for safety as well. Does fire access only provide something, well yes it does, but we have examples around town where connectivity after the fact was desirable and we think it's pretty clear in our Community Plan as well as the application of the same principle through subdivisions all throughout town. It's something that is important.

Commissioner Munger said would the road be paved if you used a Knox gate. Would it essentially be paved all the way through.

Mr. Peete said as it went into the Planning Board the intention was that they would build the full cross-section and pave it all the way up to Hagers.

Commissioner Munger said if at some future date they decided it makes more sense to have this connectivity, would you basically just take down the gate and have a full functioning road.

Mr. Peete said the best way I could answer that is that Hagers Road is a Town road owned by the Town. The new street would be a Town street owned by the Town. You have full jurisdiction over it.

Commissioner Munger said someone in the audience had asked about a designated tree buffer area that is not on the plan. Are you familiar with what she was speaking to.

Mr. Peete said this plan was provided to me by the adjoining resident, Ms. Styer, who spoke. What she's referring to is there is a limit of disturbance line that is drawn in here and it basically says that this particular project will not cross that line, so essentially this is the Styer residence. All of that will not be impacted. That particular line and that particular illustration are not in the plan set for the rezoning. That's usually a more fine-grain element of a plan that we would expect to have defined if it were to be approved and go to construction. It is not a problem if the Board would like to put that line in the plan, but I'm just letting you know that particular line that Ms. Styer spoke to is not on the plan as we speak. I can't speak for the applicant as to what their opinion about adding that to the plan is, but they can certainly speak for themselves in a moment.

Commissioner Walsh said could you bring up a picture of the layout of the community. There seems to be concern by the folks who live along Hagers Road that the traffic from this community will flood their community or overwhelm their streets. As I look at this and I can't quite see the number but those properties south of the eastern connection to Hagers Road. As I look at that, if I were living there, I would take a right or whatever out of my driveway and I would go straight out as well as those kind of to the east it seems like there's very little advantage. If we were to align the other entrance or change the other entrance of Hagers Road to make that a left-in to Hagers Road, it would be even less desirable to ever use Hagers Road. I guess I'm asking you for your opinion on if you look at all those homes, how many people are going to backtrack to Hagers Road.

Mr. Peete said I don't know that I'm comfortable trying to estimate what that trip distribution will be. What I can share is the thought if you make the entry into Hagers Road from the new entry into Spring Grove, I would concur that it makes it less enticing.

Commissioner Walsh said it is part of Huntersville DNA to do connectivity. We're hooking up David Kenney Farm Road, the North State project we hooked into an adjoining neighborhood, so we have kind of a history of doing that. I'm sure with the election coming up in November I'll lose a few votes even saying this, but I believe that connecting is the right thing to do.

Commissioner Bales said talking about making Hagers a left turn. Has anyone had that conversation with the developer.

Mr. Peete said yes. The developer has taken a stab I think, they can elaborate on how far they went with it, but I think that they have looked preliminarily at making some adjustments. One of the challenges is with road design standards and the Styer property, at least in terms of sort of not impacting it. I'm not going to say that there's not a way to do it per se, but based upon what has been conveyed to me through some exercise it was a little challenging to maintain the Town standards and not impact the Styer property. Again, to what level it would be impactful to the Styer property, I do not know. That was also with the goal of preserving as much of the existing site plan as they could.

Commissioner Bales said show me exactly where the fencing starts and ends on this map.

Mr. Peete said the fencing should be, and again they can correct me, but I believe that it goes all along this common boundary. They specifically callout between Lots 13 and 37 to have that. I may have misspoken. It may be that the fence only goes from 13 to 37 and it does not go behind these here. I see a fence callout right there. We'll let the applicants clarify, but I can say definitely unequivocally that against that's considered the Soil Supply side, it goes along that edge.

Commissioner Bales said the last question in regards to the fence. How tall are we going with this fence.

Mr. Peete said I believe it's 6'. And that would be behind 40' of undisturbed buffer.

Mayor Aneralla said how long ago was the Hawks Landing development approved plus or minus.

Mr. Peete said 2009.

Mayor Aneralla said Northstone has been around for at least 20 years. I've always tried to be consistent and I think if you have a connection into Northstone through Ulsten for these handful of homes down here and then maybe even for the Northstone people to come out, then you should have a connection through the east side of Hagers as well. You run into an issue if you are not consistent. In my opinion we should be consistent. As Commissioner Walsh said we have numerous projects right now at Patterson Road and David Kenney that connect into communities and these things have been planned for 12 years for Hawks Landing and 20 or so years for Northstone.

Susan Irvin (for the applicant) said I would like to introduce Katie Bradley with Timmons Group and Cody Simoneaux with M/I Homes. I only have two things to say, just minor clarifications. We have provided a disclosure form and I believe Cindy told me that was approved by the Town Attorney. And I believe it was mentioned in the public comments as well.

The fence does go along all of the lots. The difference is the additional buffer, the 60' is between Lots 13 and 37. But the fence does go along all of those lots.

Commissioner Phillips said just to have you guys verify, I've already talked to the landowners but the entire right-turn lane from Statesville onto McCord, from what I understand you guys haven't even spoken to the landowners, yet you are including their property as something you are going to acquire. Can you guys comment more on that because that's a bit disturbing because that's a small business in this community that could absolutely be ruined.

Ms. Irvin said I'll be happy to answer that question. One of the requirements of the Traffic Impact Analysis, off-site improvements, is the additional lane northbound on 115. That's often the case – the Traffic Impact Analysis can provide a list of improvements that are required. The process is that the engineering for what's actually required is not done until all of the construction documents are done in the site construction phase of the project, which comes after the zoning approval. Until the engineering is done, the applicant doesn't know what those roadway improvements will be. Typically contacting those property owners, you don't normally do it until you know what it is you need to ask for. I will say that Commissioner Bales mentioned to me that the Doves did want to be contacted and I immediately passed that along to Cody Simoneaux and he did contact them and I think they are planning to meet sometime this week. But again, the actual amount or what will be required won't be determined until the full set of construction engineering documents are done.

Commissioner Hines said the non-disclosure, is the intent just those property owners that back up to or the entire community.

Mr. Simoneaux said it would be the whole community.

Commissioner Hines said that will be provided at closing.

Mr. Simoneaux said that's correct. It will be provided at the time of sale when they sign the contract.

Commissioner Munger said following up on a conversation with Mr. Peete, there was a young

lady here earlier who commented on tree buffer and wanting to add that note. Would the applicant be willing to add that note?

Ms. Bradley said I think we could add a note near her property, the extensive grading around the rest of the site, I'm not sure if we would want to show the whole line but maybe just mirror the Styer property.

Mr. Simoneaux said we spoke with our team as well. We have no problem providing a letter to the Styer's. We spoke with them this morning as well, just to give them a comfort level. I think the concern is if there's another face that changes over and they just don't feel comfortable that if it's forgotten and lost in translation, so we have no problem providing a letter. We will agree with them on that to get it signed so they have documentation.

Commissioner Walsh said maybe I misheard it, back to the fence, I've heard it's going to be the whole from Lot 1 all the way down. And then I heard 13 through something.

Ms. Irvin said we can't see it very well, I can't really zoom in, if you look at this plan at the very top it says fence behind lots backing up to Soil Supply access.

Ms. Bradley said the intent is to have the fence behind all of Lots 1 through 37. The difference is that the additional 60' buffer will only apply to Lots 13 through 37, but the fence will be the entire length.

Commissioner Bales said going back to any conversations around creating Hagers as a left-turn. Have you all had that conversation.

Ms. Bradley said this was brought up to us I think by David and we looked into it and as he mentioned there's some challenges with trying to avoid impact to the Styer's who we have spoken with quite a bit because of how the road kind of curved and there are limitations to distance between curves that go one way versus going the other way....reverse curves and in order to maintain the required radius of curves by the Town ordinance and meet that minimum distance between reverse curves, we were going to have significant impacts to their front yard and so because of that we didn't pursue that idea on this plan.

Commissioner Bales made a motion in considering Petition #R21-04, the Town Board recommends approval of the Spring Grove CD rezoning with the following conditions:

- You provide a separate written disclosure statement to each buyer that they must sign regarding the Soil Supply business nearby.
- Construction traffic is not permitted to use Hagers Road and a gate would be added to the eastern end of Hagers to ensure construction traffic does not use Hagers. Once construction ends, the gate would be removed.
- Developer agrees to set aside funds for traffic calming devices on Hagers Road, if warranted.
- All outstanding staff comments and redlines must be addressed.
- Provide a letter to the Styer family regarding the limited disturbance.

Commissioner Walsh seconded motion.

Commissioner Munger said would that construction gate serve as essentially the same thing as a Knox gate.

Mr. Peete said I would speculate that it would be important to have that in a fire event. To be honest, that's something we'd have to explore, but we could certainly look into that.

Commissioner Munger said the thing I keep hearing is that Hagers Road isn't wide enough to handle the traffic and if you look at the neighborhoods, I have a density of 0.5 rolling into this new neighborhood it's supposed to be a density of 2.02. I think the idea of having that separation between the two of them lends itself more to the transition, so I know you are going to hate me, but I'd like to make an amended motion to what she said, but to leave that traffic gate in place until Hagers Road falls into the CIP plan and the road itself is improved to a point where it can handle the capacity.

Amended motion died due to the lack of a second.

Mayor Aneralla called for the vote on Commissioner Bales' motion.

Motion carried 4 to 2. Commissioners Bales, Boone, Hines and Walsh in favor; Commissioners Munger and Phillips opposed.

8.C. QUASI-JUDICIAL. Conduct a quasi-judicial hearing on Brown Subdivision, a request by Bowman Development Group, Inc. to subdivide 36.41-acres located south of Huntersville-Concord Road at 13831 Asbury Chapel Road into 54 single-family lots.

Mayor Aneralla said we are going to open up a quasi-judicial hearing on the application submitted for the Brown Subdivision. I want to remind everybody this is an evidentiary hearing 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 this Board. Speculative, irrelevant or vague evidence, non-expert opinion as to something that requires an expert and non-accepted 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, the 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 witnesses, 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 will swear or affirm their testimony. General witness testimony is limited to the facts, not personal preferences or opinions. Certain topics require expert witnesses including projections about the impacts on property values and traffic impacts. Individuals providing expert opinion testimony must be qualified as experts and provide factual evidence upon which they are basing their expert opinion. Mere conclusory testimony lacking the foundation of the expert's opinion is insufficient to establish the existence or nonexistence 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 decisions.

Let's identify the parties. Mr. Peete, you are here for staff. Who are the applicants.

Nate Bowman, 205 S. Church Street and my engineer.

Vince Keene with Yarbrough Williams and Houle, 5004 Billy Brook Court, Monroe.

Mayor Aneralla said how long have you been an engineer.

Mr. Keene said 35 years.

Mayor Aneralla said we will consider you an expert.

Stephen Trott.

Mayor Aneralla said is John Cabrera here.

Mayor Aneralla said do you own some adjacent land to this property.

Mr. Cabrera said yes, sir.

Mayor Aneralla said come on up and introduce yourself.

John Cabrera, 13507 Asbury Chapel Road.

Mayor Aneralla swore in David Peete, Nate Bowman, Vince Keene, Stephen Trott and John Cabrera.

Mayor Aneralla said before we go any further does anybody have any disclosures that they want to make at this time.

Mayor Aneralla said I'm sure we all know Mr. Bowman and he may have contributed to your campaigns, my campaign at one time. In addition, I know the Brown family and probably some of the people on this Board do as well. Anybody have any conversations about this with anybody, either the applicant or staff. No emails, no nothing.

David Peete, Principal Planner, entered the Staff Report into the record. *Staff Report and Staff Analysis attached hereto as Exhibit No. 7.* This is a by-right subdivision. This property is located off of Asbury Chapel Road just south of Huntersville-Concord Road. It is 36.41 acres. The address 13831 Asbury Chapel Road. It is Transitional Residential zone, 100 percent, as is all of the property surrounding it. The proposal here is to provide 54 single-family homes. Here is context for the site plan. To the west or the left of the image that you see, this is the Mirabella subdivision or a portion of it. And then there are just large lots of record along Asbury Chapel and then across Asbury is some of the remaining family holdings in the Brown and Miller and that type of ownership group. And then you have the Colonial Pipeline current field that they are working out of in this day and time.

Here is the full site plan. You can see that the majority of the development is sort of in the northern area. There is a connection that runs from Mirabella an existing stub and it runs all the way across to Asbury Chapel. There is a stub to the north to what is underutilized land, that is ripe for redevelopment as we like to say. And that is the only stub other than the connection into Mirabella at Asbury. And then there is a creek crossing here along the north prong of Clark Creek and then it runs down here to another creek as well. Just got a quick blow up here. You can see a little more detail. There's some significant tree-save including very large buffers along Asbury. They will not be doing the standard street cross-section on Asbury. They will be preserving the Rural character. The 2040 Community Plan identifies Asbury Chapel in parts as one of those roads that we want to preserve and so we will be looking to put a sidewalk and sort of meander it through the existing trees rather than create an urban type of street cross-section. This blow-up here shows you the urban open space that's

in the center of the development. It is a green. That is indicating on the plan it's size is 6.1 acres. It is centrally located and all of the residents will be able to access that easily. Very simply that is it in a nutshell.

The staff recommendation is we find the application to be complete. We find the application is in compliance with the requirements of the ordinance. And further we would state that there is a modification request in the plan for this particular block located right here along the west side and because the development to the west, Mirabella, does not offer any stub opportunities, without significantly redeveloping the design of the site, we find that block length modification is appropriate in this instance.

We would look to see that the TIA was not required by the Town but that any other transportation requirements or DOT requirements specifically on Asbury would be integrated into the final plan. Redlines of course are always there. There were two other recommendations that staff made and that is that the street running east/west from Mirabella to Asbury is a bit of a direct line. There's a slight bend to it, but it's pretty direct and so we would not like to see that become.....we would want to see traffic calming put into place.

The applicant has indicated that there is a speed table right here at the base at the urban open space and that is probably going to be one of the things that we would consider but indicating that there needs to be something there was the gist of that recommendation and then the second bullet under recommendations was that there would be a private trail connection from anywhere in this particular area down to what will be a future county/town greenway and so that would be something that the residents of this development would be able to utilize. The applicant is here and can speak to those and so with all of that staff would recommend approval based upon those points.

The Planning Board saw this last month during their meeting and they found that the application was complete. They found it consistent with the Community Plan policies LU 2.2, 9.2 and 10.2. The application complies with the ordinance, but they made the following additional comments. All the outstanding transportation and DOT requirements would be addressed. The redlines would be addressed. The east/west street should incorporate some traffic calming measures to be determined by staff. They did recommend that their trail connection from that east/west street down to the future greenway easement would be provided. They did vote in favor of the block length waiver for the block that I indicated. They indicated that there should be no construction traffic permitted through Mirabella and that of course is something that we would look for, too, from staff's perspective and then the last bullet was that the buyer of the lot and the homes should receive a disclosure statement in writing of the past, present and future environmental impacts of the Colonial gasoline spill.

Any questions of the Planning Board motion, staff recommendation or the plan itself and again Mr. Nate Bowman and his team are here to answer any other questions you have.

Commissioner Phillips said are any of the lots or any of the land in the proposed site, are they in the spill sphere for Colonial.

Mr. Bowman said not at this point.

Commissioner Phillips said I appreciate you putting the disclosure in there.

Mr. Bowman said I just want to clarify, I can't predict the future, so we'll have the disclosure statement reviewed by Emily, but we'll speak to what's going on and what might happen in the future but of course we are monitoring it just like everybody else is in the area to make sure it doesn't go any further.

Commissioner Phillips said just to clarify, all city water.

Mr. Bowman said yes.

Mr. Bowman said NCDOT has required a left-turn lane on Asbury Chapel with 75' of storage and we specifically are reserving the greenway for Mecklenburg County, not dedicating it at this point and we have not heard back from them about the reservation. We are going to follow the ordinance to the letter. I've gotten caught dedicating too much to Mecklenburg County and getting very little back in return. We won't go into that right here, but it's in the approved plans as a reservation, not a dedication.

Commissioner Bales said one of the staff's recommendations was to provide a trail connection from Roosevelt Grove Drive to the future greenway easement. Are you willing to build that.

Mr. Bowman said absolutely. We expect to work things through with Mecklenburg County eventually. It will be three years in November since we started working on some drainage easements with Vermillion.

Mayor Aneralla said Mr. Peete, can you pull up the map of the subdivision so maybe Mr. Cabrera can tell us where he lives.

Mr. Peete said are you off of Asbury Chapel.

Mr. Cabrera said I'm the last house right beside Clark Creek. I'm on this side of the creek. I'm the last house before Clark Creek.

Mr. Peete said he's indicating that he is located right here.

Mr. Cabrera said right before the bridge. There's been a lot of developments, a lot of houses being built. Ever since they've been building all these houses I've been getting massive flooding in my house. I'm talking floods as high as that. Almost getting to the top of the bridge. One time it went over the bridge. What is this community going to do to the flooding.

Mayor Aneralla said we're kind of the jury here, so you need to address us.

Mr. Cabrera said what is this development going to do to the flooding. Is it going to be more flooding at my house or what's it going to do. Are they going to expand Clark Creek to absorb the drainage of all those homes plus the other ones. What's going to happen. That's my concern. I've got pictures so you can see how much water flows through there.

Mayor Aneralla said the question before the Board in something like this and I'll defer to Ms. Sloop is so you are saying you have flooding now, but because of this project will be impacted worse.

Mr. Cabrera said what's going to happen.

Mayor Aneralla said did you bring anybody. I know you didn't, right.

Mr. Cabrera said did I bring what.

Mayor Aneralla said an expert to talk about it.

Mr. Cabrera said I came here to hear. They asked me if I wanted to speak. Yea, I wanted to tell you what's going on on my property and my adjacent neighbor's property. We both are getting flooded. When it rains a lot, what's going to happen. I don't know.

Mayor Aneralla said Mr. Bowman, would you like your engineer to address what types of things you do when you do a development.

Mr. Cabrera said can I show you some pictures.

Mayor Aneralla said nobody is going to be able to see that, so we are not going to enter that into evidence.

Vince Keene, Yarbrough Williams and Houle, Civil Engineer, said yes, in the ordinance there is a requirement for detention of storm water from the project to capture the majority, if not all, of the run-off from specifically the impervious areas in the project. The detention requirement is to detain the water to pre-existing conditions for the 10-year storm event. In the 10-year storm event there was a large, it was like a rainfall event, that's going to capture the water in a proposed wet pond and a sand filter. There are two BMP's that will be designed here to capture that event and detain it to the pre-existing conditions. The pre-existing condition out there is partially wooded. We will analyze this as if it was completely and totally wooded. To do a pre-existing condition that's totally wooded when it's not means that we are probably going to be detaining more than we probably have to, but that's the way I like to analyze it as if it were totally wooded back in the day.

Mayor Aneralla said Mr. Cabrera, does that answer your question.

Mr. Cabrera said somewhat, yes. I just want to make sure it's not going to flood more at my house.

Mayor Aneralla said in theory they have to mitigate all the water run-off and he's stating that it will do that plus any potential additional. Do I have a motion.

Commissioner Walsh made a motion in considering the Brown Subdivision Sketch Plan we the Town Board find the application is complete. The application is consistent with the 2040 Community Plan including Policies LU2.2, 5.271, 9.2, 10.2, 12.3, EOS2.1, 4.3, 8.2, 8.3, 10.1, PS8.1, T3.1, 3.2 and 5.3. The sketch plan complies with all applicable standards although the following items must be addressed:

- A modification request for the westernmost street block length not to exceed 950' is approved as there is no opportunity to introduce a street stub due to the abutting property being fully developed (Mirabella Subdivision).
- A street running east/west connecting Mirabella to Asbury Chapel should incorporate traffic calming as determined by staff.
- Provide a trail connection from Roosevelt Grove Drive to the future greenway easement.
- Buyers of the lots and homes should receive a disclosure in writing of the past, present and future environmental impacts of the Colonial gas line spill.
- No construction traffic should be permitted through to Mirabella.
- All required Town or NCDOT road requirement improvements are provided.
- All outstanding transportation comments are addressed.
- All outstanding redline comments are addressed.

I would like to make a motion to approve the Brown Subdivision Sketch Plan.

Commissioner Bales seconded motion.

Mayor Aneralla said the application was originally submitted to the Planning Board and the Planning Board made a recommendation. However, nothing that occurred at the Planning

Board level including the Planning Board's recommendation should be considered as evidence that you can base your decision on. However, there can be some useful things that the Planning Board identified as issues and this Board may consider those.

Mayor Aneralla called for the vote.

Motion carried unanimously.

Mayor Aneralla said staff will now draft and I or my designated signee will sign a final written decision to reflect the vote and the reasoning for this decision. That written decision will be provided to the applicant and other parties with the right to such notice.

8.D. Consider approving revisions to the Town of Huntersville Personnel Policy.

Commissioner Munger made a motion to approve revisions to the Town of Huntersville Personnel Policy as noted in our Staff Report.

Commissioner Boone seconded motion.

Motion carried unanimously.

Revisions to Personnel Policy attached hereto as Exhibit No. 8.

9. Consent Agenda

9.A. Approve the minutes of the July 19, 2021 Regular Town Board Meeting.

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

9.B. Approve the minutes of the August 2, 2021 Regular Town Board Meeting.

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

9.C. Approve budget amendment appropriating Fund Balance in the amount of \$250,000 for the design of the new alignment of Church Street between McCord Road and NC 73 (Sam Furr Road).

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

9.D. Approve budget amendment appropriating Fund Balance in the amount of \$75,000 for the application package to CRTPO for improvements to NC 115 - McCord to NC 73.

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

- 9.E. Approve budget amendment appropriating Fund Balance in the amount of \$30,000 for the crosswalk enhancements at the intersection of Gilead Road and Sherwood Drive.**

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

- 9.F. Approve budget amendment appropriating Fund Balance in the amount of \$140,000 for higher than expected contract bid results for the Holbrook Street Extension project.**

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

- 9.G. Adopt Ordinance to temporarily close certain state-maintained roads for the Veterans Day Parade and Event.**

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

Ordinance attached hereto as Exhibit No. 9.

- 9.H. Call a public hearing for Monday, September 20, 2021 at 6:00 p.m. at Huntersville Recreation Center, 11836 Verhoeff Drive, on Petition #R21-14, a request by Trinity Capital Advisors to rezone 23.14 acres at 10695 Hambright Road from Special Purpose - Conditional District to Corporate Business - Conditional District.**

Commissioner Phillips made a motion to approve. Commissioner Walsh seconded motion. Motion carried unanimously.

10. Closing Comments

11. Adjourn

Approved this the 7th day of September 2021.