

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**September 20, 2021
6:00 p.m. – Huntersville Recreation Center**

PRE-MEETING

The Huntersville Board of Commissioners held a pre-meeting at Huntersville Recreation Center, 11836 Verhoeff Drive, at 5:15 p.m. on September 20, 2021.

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

Commissioner Walsh made a motion to go into closed session pursuant to N.C.G.S. 143-318.11(a)(6) for purposes of considering qualifications, performance, and conditions of appointment of a public employee.

Commissioner Phillips seconded motion.

Motion carried unanimously.

Upon return from closed session, there being no further business, the pre-meeting was adjourned.

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

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Recreation Center, 11836 Verhoeff Drive, at 6:00 p.m. on September 20, 2021.

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

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a moment of silence.

Mayor Aneralla led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS – STAFF QUESTIONS

Mayor Aneralla

- Recognized two new Planning staff members.
- Expressed appreciation to Commissioner Bales for filling in for him at the last meeting.
- The agenda for the next Metropolitan Transit Commission meeting includes approval of three bus stop enhancements.

- Staff and elected officials have requested multiple times for Colonial Pipeline to attend a Town Board meeting to provide an update on the leak, but they have declined to come.
- Would like media to focus on the good that is going on in the high schools. Hopewell High has two National Merit Scholarship finalists.

Commissioner Bales

- Expressed appreciation to the Daughters of the American Revolution, Alexandria Post, for their Constitution Day event.
- Lake Norman Economic Corporation is currently working 53 active projects, 31 of which are in Huntersville.
- The EDC Work Force Development Manager and myself will be meeting with Hough, Hopewell and North Meck and their CTE programs to begin planning the speed networking event that we will be doing this fall.

Commissioner Boone

- Provided update from the Lake Norman Chamber of Commerce.
- Huntersville Fire Department is selling t-shirts as a fundraiser for the Purple Heart Homes and The 22 Project. The funds will be donated in the month of November.
- Reminded everyone to lock their vehicles and not leave valuables in them.

Commissioner Hines

- The NCDOT P6 list that was ongoing right now has been halted primarily due to funding shortfalls, cost overruns, and the cost of everything going up. The Charlotte Regional Transportation Organization is going back and looking at P3, 4 and 5 and are going to reprioritize based off of when we get funding. Highway 73 was supposed to get started in 2022/2023. That project was stopped and will restart in 2025 or 2026. The Main Street project is under construction in downtown Huntersville. Today they started on the Gilead Road and Statesville interchange.

Commissioner Munger

- Will be meeting with Mecklenburg County Government officials and various other town officials for a discussion on farmland preservation.
- Consider supporting local non-profits.

Commissioner Phillips

- Provided update from Ada Jenkins Center.
- Charlotte-Mecklenburg Animal Care and Control is at maximum capacity for dogs right now. Consider fostering or doing a staycation.

Commissioner Walsh

- Provided update from the Huntersville Regional Chamber.
- Provided update on Parks & Recreation events.
- Provided update from Visit Lake Norman.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

BeeJay Caldwell, 14521 New Haven Drive, said a report has been submitted to the Town's elected officials. It is an in-depth history of Pottstown and the East Huntersville Communities. The purpose is to

show how this 110-year-old area is significant and its residents are being erased or squeezed out. I and other members of the Pottstown Preservation for Change Committee are looking forward to working with you so that we can bring about a change. Who we are – the Pottstown Preservation Committee for Change, a multi-cultural group of homeowners living in Pottstown, East Huntersville, and New Haven Park, who feel they are expendable and not valued as humans. We want to work together to bring about hope and a positive change that will impact and strengthen each segment of our community and it's a place where any resident can be treated with dignity, feel valued, respected and whose dream is to catch the spirit of community so that he or she will be motivated to invest their time and talent in their neighborhoods and there is hope. I came up with this acronym for hope.....H – help, O – open, P – people's, E – eyes, so there's a lot of hope in Pottstown and East Huntersville and I am here today to say that the area is worth saving even though it has been gentrified, which means that more people than the original black folk, descendants of the enslaved who were originally relegated to that space, we've been inundated, we're out numbered and maybe out gunned. That's a joke. Help Pottstown and East Huntersville Communities. They are worth saving, so will you join in our effort.

Brent Green, Creech and Associates; Mike Carlisto, Edifice; Tim Bender, Edifice – presented PowerPoint presentation on the progress of advanced planning stage of design of new town hall. *PowerPoint attached hereto as Exhibit No. 1.* Requested direction in order to decide which one of these to move forward with and study in schematic design.

Mayor Aneralla said I think you incorporated a lot of what feedback I think the Board had already given you, as well as the community, and so thank you for that. I do want to rehash a little bit about why now as opposed to any other time. Over 2-1/2 years ago we started having discussion on whether we needed a new Town Hall. Mr. Roberts came on board, did an analysis of what it would take to house the number of employees that we would need over the course of the next 5-10-15 years. Huntersville is 63,000 – 65,000, we will be over 100,000, so how do we fit the number of people we have into the space we have. In addition, this Board made a comment a couple of years ago that we wouldn't really proceed with spending any money on this endeavor unless we sold one or two or some parcel that the Town owns. Last year we contracted with two entities, one for 2 acres next to Discovery Place Kids for about \$600,000 and the old Police Station is under contract and should close within the next 30-45 days for \$1.8 million. Previously, the Town had sold a number of acres near the Waymer Center for \$600,000, some small portions of previous acquisition near the Vermillion Village for well over \$300,000 and the current Town Hall was appraised for \$1.7 million. That's a total of \$5.4 million of potential sales or current sales that could go towards this Town Hall. I've been a proponent of trying to consolidate all of our assets because why do you have them if the Town doesn't need them. Let's get them sold, put them on the taxpayer rolls and consolidate everything into one town hall. As I have stated numerous times, I never thought I'd be here 6 years later thinking that we needed a town hall, but I think fiscally this is a good time for us. If we put \$5 million or \$6 million down on a \$14 million project, we are borrowing right now at about 1 percent. We are AAA rated. We are the best funded community in North Carolina. We have the resources to go ahead and move forward and do all the other things that are necessary to keep either the Town safe, add greenways, sidewalks, roads and so forth. But why else would we want to do this. We are losing community space by selling the Blythe Building. We could have community space where we could have voting, we could have HOA meetings, civic organizations and then also as the Town is getting bigger, our needs are growing and we will need more services to come from Town Hall. For example, for a number of years we had a Veterans Liaison that would come just one day a week that allowed Veterans to come to Town Hall as opposed to driving all the way to Mecklenburg County and back, so we could offer that service again. Social Services – we are looking at the Police Department as potentially having a social worker on call to help with cases. Magistrate – we've talked about having a magistrate for decades, but maybe this will have a particular place where

we could house the number of magistrates who we would need. We have on our agenda tonight something about the opioid settlement that we will join in with the county. In order to spend some of that money, you will need to have counseling services. Potentially we could have those services here in Huntersville as opposed to having to drive all the way down to Freedom Drive or someplace else in Charlotte. I think it's something that's necessary, and for all these reasons I think it's time to move forward. I do want Mr. Roberts, if you can answer the question of why this land is not necessarily commercially viable. I think it's a finer point that a lot of people don't understand, but the Town owns this land in conjunction with bonds that were issued to build the deck.

Anthony Roberts, Town Manager, said when I first came here, I think the Board tried to take RFQ's, RFP's on that property and I don't think you got any offers on it. The one thing with that property is the parking deck that's behind it was financed with LOBs, Local Obligation Bonds, so there's private use issues with that. If I were to go, Anthony Roberts LLC, were to go try to purchase that property, obviously when you go build a building on it, you've got to have parking. No bank is going to finance something that you can't park. That deck was paid for with public dollars and so it has restrictions on it, so I can't just give away parking to any entity that comes along that wants to build there. The short answer is being able to park a private use there would be next to impossible.

Mayor Aneralla said I've said my peace. One question I have is how big is the Chamber.

Mr. Green said the Chamber seats 150 people and has an 11-person dais to allow for future growth should you all head in that direction.

Mayor Aneralla said I'm for Option C, for whatever that's worth.

Commissioner Walsh said one of the narratives in the community is this idea I see up here, it says \$14 million budget all in and my wife and I have purchased three new homes in our lifetime, new builds type of thing, so I feel like this is the time we are kind of going in and out of the sales trailer, looking at things and trying to decide, but at some point we sat down and we picked our options or she picked our options, and decided what we wanted and what upgrades etc. and then they said here's a number and we signed. Costs go up, but it's on the builder.....if it goes down, they make more profit, so in this timeline what number is that and approximately what month is that assuming we give some direction to say hey we want Option X.

Mr. Green said in terms of where we are in the overall schedule?

Commissioner Walsh said in the schedule here. At some point you guys will actually design it.

Mr. Green said so you are referring to when we get to the guaranteed maximum price.

Mr. Carlito said the guaranteed maximum price cannot be determined until you have a public competitive bid process. That should happen next winter, early spring.

Commissioner Walsh said next winter as in this coming winter.

Mr. Carlito said exactly. To me I always think of late winter/early spring.

Commissioner Walsh said I have a question for Mr. Roberts. Some have said there are absolutely going to be cost overruns etc. and they have compared the Main Street Project as well as the Rec Center. Can you tell us what the difference is between this project and those?

Mr. Roberts said the Board has set \$14 million as the budget, the GMP. At the end of the day we have instructed them \$14 million is all we have to spend, unless a new board comes in and says we want it to be \$16 million, \$18 million, \$20 million or whatever they want it to be, but \$14 million is the direction that we have given them and that's the number. If you look back at their options, you notice there's finished square footage and unfinished square footage. Ultimately when they go to design this and they come back in the winter with those numbers, you would have slightly less finished space versus unfinished space. The \$14 million is the number, unless a future board says otherwise. It won't be this Board because a new board will be sitting here and when that GMP comes back in the winter, there will be a new board sitting here.

Commissioner Walsh said if we are talking about in the next few months getting that price locked down, when we built this Rec Center there was many years before we built it, correct, as well as the Main Street Project took many years, so we are talking about a much shorter timeline.

Mr. Roberts said this is a different process, too. This process is the first, I think, design-build process that the Town has ever done, and there's a reason we did that.

Commissioner Walsh said I just have a quick question for Ms. Huffman. We are going to be straight financing this, correct?

Jackie Huffman, Deputy Town Manager, said we have not decided pen to paper exactly how we are going to do it. It would be my advice that we would finance it and here's why. When I look at the rest of our CIP, there are an awful lot of streets and greenways on that. You don't have any authorized bonds available to be issued. We don't have any General Obligation bonds, so it would be my recommendation that you preserve your existing fund balance to fund projects that are going to be more difficult to get financing for. If you are attempting to finance a town hall, a bank doesn't mind that type of collateral because we are AAA bond rated. When you issue debt, a bank is looking for good collateral. A town hall could be repossessed by a bank in the event that they had to and that could be used as office space. A bank is not interested in greenways or roads or sidewalks as collateral because they can't repossess that and sell that to somebody else, so we have to be cognizant of what's available to be financed using what instruments and so until we get additional GO bond funding, it would be my recommendation that you use installment financing for this and that's the rationale why.

Commissioner Walsh said to the Mayor's point, the funding right now is pretty cheap, right?

Ms. Huffman said you have items on your agenda tonight where you are issuing debt at less than 1.5 percent. I've been in local government 26 years and it's just unprecedented. I would have said that when we were issuing debt at 2 percent, but theoretically how much lower can you go.

Commissioner Walsh said you are probably not going to get much lower, so there's probably never a better time than now.

Commissioner Hines said I'm more leaning in favor of Option C. I think it kind of works better on that site. I think it provides a larger plaza. The plan is if this moves forward, the current town hall will most likely not be there long term. It would be sold and redeveloped. Is there a point if we were to say

Option C, you are going to move forward with having this tower on top. Will you be moving in that direction or will we have the opportunity at a later date to look at that and say change these design elements of the façade.

Mr. Green said we are in the very early phases of this, so yes, if you say go forward with Option C with a caveat that we want to take further study on this idea of the tower, but we like the plan organization, that is certainly a direction that we could respond to.

Commissioner Bales said I have to say I'm a little bit surprised because I actually like Option C and I didn't think that I would. One of the things that sticks out for me is the amount of initial staff space, which I think is critical for this new space. Staff is on top of one another now. In addition to giving it the community space that flows out into the plaza, which I also agree having the larger plaza space for the community I think is a wonderful thing. I'm still a little iffy on asymmetrical, I like balance to things, so I'm still watching it, but I like the initial concept for everything that it provides.

Mr. Green said that's very interesting, we had that exact same discussion in our shop. I think that just proves the process that it's good to have options to evaluate. I think the good thing about where we are in this decision point is schematic design is just still the first real phase of design. This is all pre-planned, so there's lots of time to explore this before we come back with a refined option.

Commissioner Munger said one of the first things I look at is the number of people in this room. You wouldn't fit this number in the current Town Hall. There is absolutely no doubt in my mind that you wouldn't fit in the chamber. There would be people back in the waiting area like it used to be 2 years ago and it has nothing to do with COVID specifically. Assuming a non-COVID situation, you would be crowded up against the wall, someone would be leaning against the light switch dimming the lights, we've all been there, it's happened. I've done it personally. If we built on the current site and this is possibly a question for staff, would we move all of the existing employees that are currently on the third floor of DPK to the new building.

Mr. Roberts said if we build on the current Town Hall site, the existing employees that are in Town Hall right now, what would we do with those who they build.

Commissioner Munger said the existing employees in the Discovery Place Kids building, would they come to the new town hall or would they stay there.

Mr. Roberts said stay there.

Commissioner Munger said you are going to have employees in two different locations again.

Mr. Roberts said we would maybe move a couple over to free up some space over there because Planning and Engineering are growing, so we may move a few Parks & Rec staff over to wherever the new town hall is.

Commissioner Munger said again, employees crossing two intersections to get to and from meetings.

Mr. Roberts said I think the key of building on the existing site is I think you add another, I don't know, 12 or 15 parking spaces on top of what we've got, so most likely staff would probably take up all of the parking, so any type of meetings and functions and things like that pretty much they are parking in the parking deck.

Commissioner Munger said that was my next question. There wouldn't be nearly enough parking in the existing Town Hall location if it were expanded to accommodate all of the staff parking and visitor parking.

Mr. Roberts said if you look at old 2006 plans and things like that, you will see where they had a parking deck, a Discovery Place Kids type venue and town hall expanding. That was buying additional land on the back of the white building behind Town Hall and also some land where Rafik's place is, the Italian place, so that was contemplated 15 years ago. The problem is that's more land to buy and I know what the price is on those properties now, which both of them combined are several million dollars and you've got to build a parking deck. To me if you are looking at all the different options that are there, whenever the Town decided to move DPK on the opposite side of the street and build a parking deck, you built two out of the three facilities you were looking to do in my mind when you moved it across that corner, so it made sense to me when you are looking at trying to do that plan we move town hall over there too because then you've got everything right there so the public can do everything right there on that corner.

Commissioner Munger said additionally, if we build on the lot in front of Discovery Place Kids, to the Mayor's point, I believe you said \$1.8 million is the current assessed value of the current Town Hall.

Mayor Aneralla said \$1.7 million.

Commissioner Munger said that's revenue that we would lose. In addition to that, if a commercial entity came in and decided that they wanted to build a business, take current town hall, take the building behind, bring in tax revenues, that's opportunity costs in addition to the actual upfront money, so over a period of time we would continue to lose money if we didn't sell off that particular portion as well. Would that be fair?

Mr. Roberts said as long as the government owns it, it pays no taxes.

Commissioner Munger said from everything I can see we absolutely have to build in front of Discovery Place Kids. It's the only sensible solution. It's the most cost-effective solution and in terms of what I've seen, I tend to be in agreement with almost everyone who has spoken up to this point. Option C I do enjoy. I like the idea of the top there that's similar to our current town hall. I like that transitional idea. I'm not as opposed to asymmetrical entrance.

Commissioner Boone said could you tell me who designed the current Town Hall.

Mr. Green said David Creech was the designer while with LS3P & Associates.

Commissioner Boone said they are still with you?

Mr. Green said yes.

Commissioner Boone said the people who designed the old town hall, that will be expensive to expand and you can't go up on it, we are going to hire you to build the new one if this is passed. Everything that I've seen is that everybody says the parking deck is already there.....\$4 million or \$5 million to build a new parking deck. Are we making any repairs to the parking deck now.

Mr. Roberts said yes, sir.

Commissioner Boone said do you know how much that's going to cost and what do you think the timeline for that parking deck is. What's the lifetime of the parking deck. How long will it last?

Mr. Roberts said I don't know, but all that was built before me, but I would say it's probably a 30-year life on it.

Commissioner Boone said when you folks came up that you could build this building for \$14 million, I'm sure you did your due diligence and your homework, but at the time all these costs of raw materials and availability has gotten very hard to find, they've escalated in price. They've come down some. You are still confident that you can build this for \$14 million.

Mr. Green said we are because of the strategy that was mentioned earlier around the shell space and our ability to swing that back and forth as the market drives those costs unanticipatedly.

Commissioner Boone said if the costs go up we get more shell space and people aren't finished. And then my last comment is the 2 acres is private use would be impossible to develop. Why not just leave it the way it is now where people can enjoy that green space.

Commissioner Phillips said I was at the in-person thing. I think you guys did a great job. It would have been nice to see the percentage in numbers of the people who said no because there was a vast amount of noes to a new town hall. I feel like those voices need to be heard. I spoke to a builder this week and I think you guys would have a contingency plan, they said it was a 16 to 20 week wait right now for windows because of massive shortages and that's if you are an established customer. Are you guys established customers that could obtain windows.

Mr. Carlisto said yes, we can. We work with many vendors who are professionals in that market.

Commissioner Phillips said they were saying if you are not established it was like 6 months wait plus.

Mr. Carlisto said what we are having to do is plan things earlier than normal because of these long lead times, so not just windows – steel, roofing insulation, we're having to price and prepare those bids a few months ahead of time so we can time those deliveries when we need them onsite. There's a wild science for it right now.

Commissioner Phillips said everybody keeps saying like cost savings and it's like one of those things that like the grocery store, Kohls or Belk, they always say like when they hand you your receipt you saved \$300 but it's really like I just spent \$200, so there's not really like a cost savings involved. We're still spending money. I think we should be more mindful of how we are wording that because we are not saving anything, we are spending money and that's just the fact of it and then no disrespect to you guys, I think you guys have been great, especially because I have been such an opponent. I'm disappointed, and it's no fault of you, this presentation wasn't in our agendas because I feel like the public should have had a say in whichever one because you know it's their building, that building is going to outlast whoever is sitting up here, so I'm not in favor of any option because I'm not in favor of building the town hall, but I do appreciate the work you guys are doing and no hard feelings towards you guys.

Mayor Aneralla said remember there will be another public meeting sometime early fall.

Commissioner Walsh said I am also in favor of Option C and before Commissioner Hines takes off the whatever that thing is called, you started to describe underneath it was light coming down and something else, was that in a conference area or the tower I guess you call it.

Mr. Green said we do sort of currently think of that as a unique conference space not too dissimilar from the one at the Town Center.

AGENDA CHANGES

Commissioner Bales moved Item 9.D to 9.B and then move Item 9.B to 9.D. We are leaving 9.C alone.

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

Commissioner Walsh seconded motion.

Motion carried unanimously.

PUBLIC HEARINGS

Mayor Aneralla recognized Planning Board members present: Frank Gammon.

Petition #R21-06. 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., 303 multi-family units, 65 attached units and 77 detached units (Parcels: 01107311, 01126101 & 01126113).

David Peete, Principal Planner, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 2.*

The property in question that you see in the black shading is located south of 73 where Davidson-Concord Road comes into NC 73.

The project on the west side abuts Black Farm Road and it does not abut any roads on the east side as it is presented. The red dash line that you see running through here is a future thoroughfare. You can see that as the extension of Davidson-Concord Road moving south. Overlaying some aerial, you can see a little clear, the pink line moving through the middle of this, that is the future thoroughfare. Of course, you can see some of the existing Black Farm, Ramah Church over here, and then 73 there. This does represent the northern boundary of Huntersville in this particular location. The request is for just a smidge over 84 acres. It is all in the area in yellow. It is all currently zoned Rural district. The proposal is to rezone to two zones – Highway Commercial Conditional District and Traditional Neighborhood Development Urban, which is a distinction, would also be indicated. The proposed use, as summarized by the Mayor in his introduction, is for 303 multi-family apartments, 65 attached units (townhomes) and then 77 detached units, as well as 42,500 sq. ft. of commercial. The area in yellow and those uses put together would have a density of 5.3 units for this proposal.

When you look in the 2040 Community Plan and the land use pattern that's going on, that I think is very important for the Board to understand is that there is already an approved project that is well over 10 years old. It was approved under the name of Huntersville East. It is now being developed under two, it's split, and you have what is North Creek Commercial and North Creek Residential. The commercial part is located here and again, for orientation purposes, north is now to the left, so this commercial area here will have a grocery store and then several outbuildings that will be commercial in nature. Behind that are townhomes and then some single-family homes. Again, the areas in white in the middle are approved. They are vested and they are moving through the review process and should be breaking ground relatively soon. We are talking about the yellow area, but what I've got right here is to show you that what do these two pieces together represent and that will lead into the Community Plan discussion.

You can see at the top, the Huntersville East Project, which was about 60 acres, has the ability to provide 181,000 sq. ft. I don't believe that that is what's being proposed, it's shy of that, but that would be the max. Then you can see there are 89 attached townhomes and 36 detached. You've got 125 total units for a density of 2.

One of the rationale that the Board used, as well as the Community Plan back in that day, was that all of the intensity and density, the commercial, was up at the intersection of 73 and Davidson-Concord and the future thoroughfare running south and then as you moved away from that intensification, you got into townhomes and then you stepped down into single-family, and so by the time you got down to the outer edge of the project where the creeks come together, you would almost approximated the Rural zoning density and so that is sort of the land use philosophy that lead to the approval of that project.

In this particular project, the 84 acres, you now are adding to the 181,000 possible square feet, another 42,500. That's not a significant amount, but when you add it to the whole, you can draw your own conclusion on that. The additional apartments will be 303 apartments and then you would have 65 townhomes, 77 detached, so now you've got 445 in total for the area in yellow. And then at the bottom you can see where everything comes together.....224,000 sq. ft. in total, 303 apartments, 154 attached, 113 detached, for 507 total units with a density of 3.96. There is a fair amount around the two creeks of area that is really undevelopable, so there's some open space there to help.

Let's look at the 2040 Plan and try to tie these together. You can see the red oval represents approximately from the western edge of Black Farm to down to where the creeks come together to splitting the difference almost to Ramah Creek, which is right about here, all the way up to 73 represents the site. Within that, you can see that there's a circle which denotes an activity center. The definition of an activity center comes from our 2040 Plan and it basically speaks to a compact walkable mixed-use center that moves it in terms of intensity it steps down as it gets to what's around it. On the left you can see the synopsis of what rural conservation is. I just mentioned that all of the area around this 84 acres is zoned Rural, as well as the 84 acres in question. The 2040 Plan calls for this area to stay Rural in nature. Our Zoning Ordinance allows for 0.9 units an acre, a lot of open space, very limited or no opportunity for non-residential. But the activity center that is called for very specifically really encourages mixing all kinds of housing types, all kinds of commercial, office, etc. Focusing in that area right there at those future thoroughfares where they are coming together is absolutely supported by the 2040 Plan. I think the distinction becomes sort of the rest of the elements, the intensity, and how are they transitioning down to the Rural. Those are going to be kind of the comments and the questions that we'll have as we go forward. This is really just a blow-up. You can see that the activity center as the 2040 Plan calls for is really looking for about 40,000 sq. ft. of commercial. I mentioned that they are proposing 42,500 sq. ft., but remember that the activity center already has quite a bit. That's background information. It's not before you, but it has a relevancy.

I just wanted to sort of do a quick breakdown. This chart in the middle is the one that I just went over with the three components – the old project, the vested project, the new one before you, and then the total. What we thought we would do is sort of go around and break down the project into some smaller subareas. The blue color here is the vested project and this light green color here or yellow is also vested. You can see the callouts of where their densities are. You can see that you went from 4.9 almost 5 up here, down to just barely over 2 and again as I mentioned around the edges you would be at 0.9, so it was moving in a good direction.

The project here if you look on Black Farm Road, you are over 2.5 located in the pink, which is mostly single-family and some townhomes along the creek. You get into the orange area here and you've got some single-family which is right at 1.5. Again, less than its neighboring project that was approved and then you get to the townhomes, you've got 2.7. Again, remember that there are some creeks in there that are helping with the open space. I think it's safe to say that the pink, the blue and the orange are really not pushing boundaries too much. They are coming away from the activity center. I did fail to mention previously that you could see that there is a circle that is drawn in here. That's the approximate illustrative boundary of an activity center, but it is by no means the borders of property and it was not drawn that way. It is an approximation and it can morph as a project were to come before you. But what are the subzones that you need to take a stronger look at is where the apartments are. The apartments are almost 17.5 units per acre. For an apartment project, I think that's a sliding scale of whether that would be a problematic density or not, but the point to make here is while it is within that activity center circle, it is right on the edge of the rezoning potential and you've got Rural over here at 0.9. That's a pretty jarring transition and if that type of density next to each other is going to be palatable, then I think what the Community Plan would want is good buffers and good transitions. And there's a lot of ways to do that. You can do that with distance, you can do it with something like buffering. We talk about tree save, landscaping, etc., so there's a lot of ways that we can explore doing that and staff is doing that with the applicants almost on a daily basis.

I do want to point out very clearly that there is no development on the east side of the creek, so it would be set aside as common open space. We would hope that it is purely undisturbed and tree saved. That is not clear, so we would ask that the applicants clarify all of that. I do also want to point out that the distance from the edge of the property that's proposed to rezone to the first apartment building is over 230', so again you do have some distance. Hopefully, there will be some vegetation and some non-development on that edge. The question I think that the Board will still need to work through is 17 units going into 0.9, is again a significant number.

Moving forward, I just wanted to show you that the vested project is just over 2 in its totality, because again the commercial is not representing any units. There are not a whole lot of other projects in the immediate vicinity, but you do have some residential projects and they have mostly stayed close or not too far from the TR or the R. You've got right there at that 1.5 or under 2 is about what you are seeing in the vicinity of this particular project.

As far as transportation goes, the TIA is really still in the works. There has been review by our staff and we understand that there will be an updated version coming in probably today or tomorrow, so we do not have a detailed report to share with you about the TIA, obviously very critical. But the project as you can see, it only has access to 73 or to Black Farm as proposed. There would not be any connectivity to the south or to the east as it currently is proposed or stands. There are some stubs and we could go through that for future development, but the lion share of all of that development is going to be going to two locations.

The CMS report is shown here. This is the third version of the plan and I have reached out to CMS from the first one to this one, so this is updated as of today. I will tell you that the needle didn't move much from the first version to the third, so that's not really relevant to say, but you can see in the gray box this is really I think the only one that distills down is this is the impact to the surrounding schools that this project would be served by. That's information for you.

The recommendation here is that we are offering tonight the issues at hand and some of the key components that we need to address. We are not making a recommendation at this point because we've had a lot of conversations since the preparation for tonight's hearing and as you all know we have a lock-in period with the plan set and so we can't make changes leading up to tonight, but we have had that dialogue. I've been working with the applicant. I can tell you that many of the initial concerns have been removed, but we still have some that we need to work through. The applicant during their presentation may shine a spotlight on some of that. But we are not offering a recommendation tonight because I don't believe that we have even their final version of the plan in front of us, but we again are happy to try to answer any of your questions.

I just want to quickly move through sort of the areas of concern at the moment. I've already given you sort of the larger overarching concerns about the 2040 plan and the consistency there, and then we will go into some more site specific, if you will. I do have some blow ups here that we can refer to as needed. They basically just represent a break of this would be the northern area and this would be the southern area and I can help define those as needed.

One of the issues that I've already touched on is sort of those buffers and what is proposed, the nature of them. The buffers in the yellow represent 50' of technically a buffer. That does not mean that is the only separation between the adjoining property and the proposed uses, but it is defined that way, so it is a 50' buffer in the yellow. The orange is a 40' buffer and the pink would be a 30' buffer. Again, very clear, they are over the minimums that the ordinance would ask for at 20', but again moving into are they in the appropriate places and the top box also speaks to the nature of those buffers – are they disturbed, are they to be replanted, these types of questions need to be clarified.

The TND-U that's being asked for for the apartments specifically, well all of the residential is looking for this zoning designation, and to be honest, the single-family down to the south doesn't really need the TND-U, but I think for simplicity sake they were looking to keep everything together. They are looking to have about 83 percent attached units. As you know, our ordinance would normally look at about 30 percent. To get to a TND district, you see the definition there, you are looking to provide a neighborhood which is structured on a very fine pedestrian-friendly network, very interconnected, the streets and the public spaces, the walkable, as well as the automobile, are all given equal footing. There's a mixture of housing types and prices. There's civic community buildings right next to stores, offices, workplace, etc. This balance of uses in this mix, which is very important to that zone, I think one of the questions before the Board ultimately will be has that been achieved, is that being represented in what's proposed.

There are some issues with the block lengths and the average perimeter of all of these blocks due to the way that they do or do not have public streets, it's kind of the way they are calculated on a block level and so we've seen quite a few variations on this and we need to see a little bit more to conclude where they stand and then we can weigh in on whether they are complying with the aspects of that zone.

Just a couple of other items here. Building elevations are something that we need to see through the TND-U and the CD rezoning is typical of what the Board wants to see, and so we would not necessarily need to see single-family housing, but for the commercial, the multi-family and the attached units, this is something that we would normally have provided. There are a few illustrative plans that we have been shown and I believe the applicants may show them tonight, but to see each of the public street frontages is something that we are still looking for or at least something that's very typical of what they're all going to be.

There are some alternative frontages that are being proposed and what that means is, as you know our ordinance compels for the buildings to be on a public street, but we do allow alternative frontages on urban open spaces. A greenway has been batted around as three of the apartment buildings would front on a greenway, but the set-up of that greenway is not quite there as we would interpret and recommend to you, but we've talked to the applicants about it. I think that they are looking to do that to a satisfactory degree and so we expect that will be a non-issue, but again speaking to what we have before us.

On-street parking is required. The apartments, the townhomes, and any of the lots under 50', these are situations where they are going to need to provide on-street parking and they don't have an on-street parking cross-section. In several sections there may need to be some augmentation to the plan.

The parking lot screening, again this just can be noted away, but wherever you've got a parking lot of any size on a public street, it needs to be screened. I believe the applicants are very willing to do that. It just needs to be noted as such.

I've already mentioned the alternative frontages, I won't belabor that.

The pedestrian circulation. Again, going back to why is the TNDU there and what is it trying to create. And so making sure that pedestrian connections are in the right places are creating those networks aren't putting you into the middle of a large parking field, it's just sort of abandoning you – completing the loops as it were. All of that is very important. In the commercial areas there's a lot of drive-through areas that are quite confusing and a pedestrian flow is not present through there. But these things can be provided, so we are working with the applicant on that.

There is a cell tower that currently exists on the western portion of the project and typically we would see a 200' setback from a cell tower, we just went through this with a project on Eastfield Road, however they are not proposing to provide such a setback. I believe that they would be offering up an ordinance modification to you. We don't have that, but if they are able to provide that the tower was engineered to collapse upon itself and their setback is reasonable to the height of the tower, then I think that's probably a modification that we could be supportive of, but we need to see the details on that.

The rezoning plan notes. This is something that I wanted to touch on. There are a couple of notes in the plan that speak to the sketch or illustrative nature of the rezoning plan that it's really a best informed assumption of what they are going to do, but there could be changes. We all understand that minor adjustments, adjusting the tie-in to a neighboring street, grades, things like that, these things definitely happen and we know that, but the note is a little too broad and you can see in the Staff Report that it really is a very all-encompassing type of note such that uses can change, uses can shift around and when we are talking about buffers and transitions in very specific places, that becomes a little problematic to just sort of say we're okay with A becoming B and B becoming A. There could certainly be areas that might be more clearly defined that something may be internalized, it doesn't have any external

implication, if that's the type of thing that maybe could be changed up. I would like to see that there's more of a comfort level with what the applicant is envisioning, but we will continue to have that conversation as well.

There are a few lots fronting on a BMP that is located in the southern single-family portion of this project and it is a very tight area in between a loop road and that area, again from what we are seeing at this level without the full plan, looks very difficult to put in the maintenance that it might need, as well as any kind of screening or landscaping that would make that more palatable, otherwise we are going to have half of the single-family homes fronting on a BMP. Now BMP's can be done, I'm going to say in an attractive manner although obviously that's subjective, but we have a strong concern about what that is. However, the ordinance certainly doesn't prohibit you from creating a situation that's not attractive for the homeowners, but we would recommend because this is a conditional district, that hopefully we could work out a solution and the applicants would be agreeable to that.

Lastly, you can see here there are some redlines that are just drawn and some approximate locations, but the point is and it's not looking for two, the recommendation is just that this is a very large residential area here and this is a large one, too, that runs off of the page and linking those two areas together with a pedestrian connection, not a street, would be a recommendation just to tie this in to make it one cohesive project.

This is just showing you on the upper left you can see one of the first versions of the apartment development and you can see that one of the things that I wanted to illustrate was sort of how you could see that there was a public street down the middle and this is creating clearly a compact-type pedestrian friendly situation. Certainly, you would have to do a lot more screening of the parking facilities out on the thoroughfare which could be done, but I'm just offering that up as you sort of look through the TND district and what it looks for, because the TND is not a district that becomes you very often, so I just wanted to sort of illustrate what's possible.

We'll come back to the schedule in just a second and the applicants have their presentation. Are there any questions about the project at this point that I can help clarify.

Mayor Aneralla said the applicant has a presentation I assume.

Susan Irvin, representing the applicant, said I appreciate the 15 minutes that we have and we will try to stay well within that and we will stay well within that. The first thing I'd like to do is introduce the team. Up here we have Brian Jenest and Sean Paone with ColeJenest & Stone, Ramey Kemp with Ramey Kemp, and we also have Steve Vinson with Magnolia Development. I'd like to ask Steve to come up and just introduce the project, then we will have Brian Jenest talk very briefly about the land use plan and Sean Paone will go into detail about the revised site plan. *PowerPoint attached hereto as Exhibit No. 3.*

Mr. Vinson said our work on the plan that is before you has been ongoing for roughly the last 18 months. The plan has changed a lot as we have explored it internally and as we explored it with staff and received their comments. I think we'll show you tonight in the course of our presentation that we've come a long way toward addressing it might be all of the items that David pointed out as remaining open.

As David told you, Phase 1 was approved back in 2009. I've personally been working on it for about 5 years and we are excited now to be finally underway and looking forward to welcoming Publix Supermarkets to Huntersville next fall. Our goals for Phase 2 of North Creek Village were to make it a

walkable, mixed-use, thoughtfully designed extension of Phase 1 with a variety of housing types and done in a way that's consistent with the Town's Comprehensive Plan. I think our team has done a great job of accomplishing those goals and I hope that you will agree after we finish our presentation.

Brian Jenest said I'm just going to quickly acknowledge what David Peete has just said about your 2040 Plan and how it complies with what we are proposing. Obviously, there's history around us with the existing plan that Steve just mentioned, but the North Creek Village is located within an activity center, as we have all talked about. Here are some notes on the goals of the activity center, to create a vibrant pedestrian accessible mixed-use area, which I hope you have seen we are in fact providing and there is a location of the activity center and here it is in the macro and then I wanted to show you again just some images of the improvements to Highway 73. Obviously, we all know it's going to become more of a highway than it is today and again it's importance to this piece of property right here. Here are just a few other images of that expansion. Again, transportation is a big piece of what we are talking about.

Ms. Irvin said I won't dwell on this other than we went back and looked at our notes, and our initial meetings we began with the Town in July 2020. We've been meeting consistently since then. We filed the application on April 1. We were planning to come before you at the public hearing on the 16th of August. We got second round comments on the 11th and we asked for a delay of that public hearing so we could address those and we've been able to meet twice with staff and had numerous conversations with them to arrive at the changes that we are presenting to you tonight. The main thing that we want to do is just go over those revisions a little in detail. As David said, he is only allowed to comment on the plan that was submitted before the August 16 public hearing. We are going to spend our time tonight updating you on where we are after our work with staff.

Mr. Paone said I'm going to go through the site plan again just briefly, as well as some of the revisions made based in response to some of the Staff Analysis comments. This is the orientation, again moving from north to south. I'm going to actually change the slide, so just to reorient we are now looking from left to right as north to south. You've got Highway 73 on the western side of the plan. Black Farm Road is now on the south side of the plan sheet and then kind of moving through the uses proposed on the site plan, up again, 73 you've got our focus on the commercial section there which is a little harder to see here, but it's in darker orange. You then transition to the multi-family site here, which is kind of slightly less dark orange than what the commercial was, which again is in direct relationship to the higher commercial use proposed in Phase 1 of North Creek, which is as Steve said, currently under construction. It just broke ground not long ago.

As we move further south you transition into the townhome section here and then transitioning into the single-family detached which is comprised of 50' and 60' wide lots. Again, moving kind of around the plan with a connection to Black Farm Road with the detached single-family in that location as well, in order to be more consistent with the adjacent land uses. Just pointing out some connection points, we have several connection points to Prosperity Church Extension, which is kind of shown in between Phase 1 and Phase 2. The proposed connection points currently align with what was shown in Phase 1. We also have multiple street connections for [inaudible] traffic, linking all the different uses between commercial, multi-family, the attached residential and single-family, as well as two additional connections into the Phase 1 single-family at the south end of the project, just north of that cul-de-sac in Phase 1, as well as the connection along Black Farm that comes into the existing Phase 1 townhome section behind the Publix.

Kind of talking through some of the site plan modifications that we are proposing, again after the August 16 date in response to staff comments, we generally kind of looked at those and broke those down into four main categories. You had pedestrian connectivity, again kind of in response to the TNDU, and as part of that this is really showing a lot of the modifications that we are proposing here, but we broke up the center parking field within the multi-family section to allow for connection from Prosperity Church Road Extension through the multi-family area to be able to connect to the proposed greenway, as well as making horizontal and vertical connections through the multi-family and commercial areas to be able to link the proposed residential all the way up to the commercial on 73. As part of that additional pedestrian connectivity, one of the things I forgot to mention, this is Ramah Creek. There is a proposed greenway plan and as part of our proposed improvements we have an internal greenway connection that would actually link the Ramah Creek greenway all the way up to the commercial area. It's a little harder to see. It may be easier on your plans to see – it's a green dashed line that actually connects through. There are actually two locations....it comes up from Ramah Creek up to the commercial and then also from the Ramah Creek Greenway to the Black Farm Road section.

One of the other questions that needed clarification was the proposed buffers and I actually have a cross-section to illustrate a little bit more of the separation from the multi-family to the existing adjacent residential, but as it relates to the plan, David mentioned that we do have three, actually four, different buffer types. The minimum requirement is the 20' buffer that is going to remain undisturbed along the property boundary all along the existing adjacent residential. We've actually increased that to 50' in the higher intensity areas of multi-family and townhomes. We've got a 40' on the southern section here adjacent to the residential and then 30' along the property that is adjacent to Black Farm Road along with a 100' buffer at the intersection here where the internal street connection links to Black Farm Road. As part of that, some of the feedback that we heard from the community meeting was kind of making sure that there wasn't going to be this cross-connection of the proposed development into the existing adjacent residential, so we are proposing that any supplemental landscaping that's provided in those buffers prohibits or kind of deters people from actually crossing to the other property, making it more of a physical barrier and so that's going to happen anywhere outside of those adjacent boundaries. One of the other comments made by staff was we are showing a 10' path on the backside of the three multi-family buildings and whether or not that's actually comprised of the requirements for a greenway, so I mentioned we're actually adding a second more in keeping greenway path that's in the natural area that will have a pedestrian connection through the multi-family area to that main linkage down to the Ramah Creek Greenway. And then the last kind of primary identification was there were several notes that needed modifications. We are proposing modifications to those notes that Susan has provided to the Town for review and I think those are going to address the staff's comments.

The next one is we've got several conceptual perspectives, just going to kind of run through. These are to give a visual identification of the connection of the greenway, which is shown to the left side of the image. This image is actually being taken from the commercial just outside of Highway 73 at the kind of northeast property boundary. You can see identification in the bottom righthand corner. The point of that triangle is kind of the view corridor that we are looking at, so you can see this greenway connection coming linking the multi-family into the commercial area. The next view is taken actually from 73 looking back, again maintaining a lot of the existing vegetation with that stream section that David mentioned adjacent to the multi-family, as well as you can see that greenway path coming through there, but again trying to maintain a lot of the existing vegetation creating that natural buffer and separation between the multi-family and the adjacent residential.

Lastly, this one is taken from the intersection of Prosperity Church Road Extension and 73. Looking back from the commercial you can see the double row of street trees, a wider pedestrian connection path linking down Prosperity Church creating that connection between the commercial and the proposed residential uses. Again, there were a couple of questions about what the greenway may look like, what the storm water BMP that's related to the single-family residential units, as well as a little bit more description on maybe what the multi-family would look like, so we are proposing these precedent images. Again, a wide multi-purpose path. These ones on the left are related to the greenway, so you can see a wide multi-purpose path, a lot of existing vegetation. You've got the potential to do these park swing elements there to create a more of a pocket park, as well as this lower section here, again more kind of seating areas, stopping points, areas of interest along the greenway. The center three images are examples of a landscaped BMP area, whether or not it functions more as a rain garden or an enhanced swell area, these are all giving you examples of vegetated areas that both not only meet the requirements from a storm water BMP standpoint, but also aesthetically pleasing to the adjacent uses.

These on the right side are examples of the multi-family, again creating pedestrian linkage connections between the multi-family buildings to the other pedestrian connections on Prosperity Church Road to the greenway, the corner condition here where a building may abut up against a street intersection and these kind of pedestrian connection points here between uses. And then the last one is the cross-section that I mentioned. On the west side you are looking from the multi-family building to the closest residential use, so this is the multi-family building adjacent to the proposed greenway, so currently from the edge of that multi-family building it's 236' to our property line. You can see this section here is actually that existing stream. There's 127' of stream buffer and vegetated area associated with that. To the actual first structure that's closest to the multi-family, it's an existing barn, and it's actually 571' away; to the actual primary structure of the house, it's 952'. That's closest to the nearest multi-family building being proposed.

Ms. Irvin said lastly, I would like to go over the IMPLAN results. We've talked about this IMPLAN program before. Lake Norman Economic Development Commission and a lot of universities and towns use this. It shows various benefits and these are limited to just Huntersville, although we can expand benefits and look at Mecklenburg County. This is the number for the construction benefits, operational benefits. The last slide I'd like to end with is the property taxes showing you that the taxes to Huntersville only are about \$6,000 with the vacant land and they will be over \$300,000 a year at the property value of \$129 million. More importantly, the taxes to the county will be about \$800,000 at this valuation. One of the questions raised is school impacts. Although not relative to zoning, it's important to know that when you have a mixed-use development like this with commercial and other uses, that \$800,000 every year can go to help towards schools and actually more benefit than detriment as far as this project goes.

Commissioner Phillips said I was curious with the commercial, have you guys lined up anybody yet or any talks, I know that's probably pretty preemptive.

Mr. Vince said no, we don't. At this point we don't have tenant commitments. We've designed the plan in a way that we think works for a variety of retail and restaurant and commercial users, but we don't have any specific commitments at this point.

Commissioner Phillips said price point. Is there going to be any affordable housing components to it, maybe senior housing, anything like that. Not Section 8, which is a different ballgame.

Mr. Vince said no plans specifically for senior housing. We have not contracted with a builder yet, so we don't have any firm commitments on pricing.

Commissioner Phillips said if this passes, this is going to increase the population on that side of Huntersville tremendously. I know we can't make requests, but something to consider as a good neighbor in the community, perhaps if this passes you guys could provide maybe a satellite office for our police department, because that will add more patrolling for them. That's really the only comments I have for you guys. As far as the stubs, I hate stubs. I think they are ridiculous. I don't know if it's a Town ask because the people who back up to you guys, they don't really have any intentions of selling right now, correct.

Mr. Vince said as far as I know.

Commissioner Phillips said that has got a great tree save. I don't know, maybe something for Planning to consider are those two stubs, why even build them out, just let them be trees, green space and then one day if the people who own the other land want to sell, they sell. But I think something I ran into and it's not you guys' fault, I know the rules are the rules are the rules, but I think that you guys are trying your best with the green space right now and maybe that's something the Town could work with you on.

Mr. Vince said that's a comment we have received from others, and we are certainly open to it. We are happy to dedicate the right-of-way and plant the area that would be stubbed or leave it undisturbed. I think that's an ordinance thing we would have to work with staff on, but we are certainly open to it as a developer.

Commissioner Walsh said you mentioned the multi-use path by the apartments and then you said there will also be a greenway, I guess it would probably be to the east through the woods. We are talking about a paved greenway, correct?

Mr. Vinson said correct. The idea was to have a path on each side of the stream with a pedestrian bridge that would link the two.

Commissioner Hines said Mr. Peete, you had mentioned about the TIA was still being reviewed. Can you give us an update on that.

Mr. Peete said depending on how far you want to go into the details, Stephen Trott is here, but again he's seen a version of it. Adjustments have been made. I don't want to get too far out of it, but I think the TIA was trying to serve the Town and maybe DOT at the same time and I think that they are changing their tack a little bit. Certainly, DOT is going to have their say, no question, but I don't know unless Stephen offers differently, I don't think there's anything we can say about the TIA tonight.

Commissioner Munger said this might be a question for staff to start off with, but you had mentioned and maybe I misheard it, that there were some homes fronting on the BMP and I'm not seeing it here.

Mr. Peete said if it hasn't changed, this area here in between the circular road is a BMP, and so all of those homes in that southern half of the single-family would be fronting that.

Commissioner Munger said I thought the blue is BMPs, but I do see that now. In terms of the apartments, no on-street parking, is that something that can be modified.

Mr. Paone said we actually have a street coming through right here that these are fronting on. That does have on-street parking, as well as the one that runs in between the commercial and the multi-family on this side, that also has on-street parking. It would be difficult to add on-street parking on Prosperity Church Extension, so that is basically just a setback that is going to have a landscaped wide area there and the frontage with a pedestrian sidewalk, but that modification says associated with the attached residential that there will be on-street parking in front of those units.

Commissioner Munger said staff made a comment about the possibility of putting in a pedestrian creek crossing. Is that something that you guys would be willing to do.

Mr. Paone said I think it was directly related to the section here, but I think there was also a callout in other areas. We do have the pedestrian crossing here that links the multi-family to the proposed green area that we are showing here, but the staff they put those two red lines on the plan, so we do have this connection here and then we do have this other connection into the Phase One section. I think that's where we have identified that that would be the connection points.

Mr. Peete said you have the potential for a connection here across the thoroughfare, here across the thoroughfare, and then another one across the thoroughfare and then this single-family connects into this single-family, so there's a lot of good from the center to the east and so the recommendation was simply that all of this down here is only connected right here and so again not looking for a street, but thinking pedestrian connectivity made some sense, but purely recommendation.

Commissioner Munger said I'm just curious if you would be willing to address that and put in an actual not a road, a pedestrian crossing.

Mr. Vince said we are proposing that on the greenway to the plan north adjacent to the apartments, I guess that's something we could.....it's not something we have studied on the Black Farm rendering of the project, but it's something we could look at.

Mr. Paone said we do have a parallel greenway extension that comes along that creek section, but not directly going across right now. We're happy to review that.

Commissioner Boone said how are you going to address the cell tower.

Ms. Irvin said I guess one of the things we've been working with staff is trying to find the information about the cell tower, because it's been there a while. It is 90' high, so a lot of cell towers now are much higher than that. The staff found us that information. Once we had that information, we worked with staff on a modification that would allow a distance equal to or greater than the height of the tower between the tower and residences.

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

Petition #R21-11. Mayor Aneralla called to order public hearing on Petition #R21-11, a request by Trinity Capital Acquisitions, LLC and Mike Clapp to rezone 23.14 acres from SP-CD to CB-CD at 10695 Hambright Road (Parcel 01740104).

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 4.*

This is a request by Trinity Capital Acquisitions. The property is 23 acres. It's today zoned Special Purpose Conditional District and the site is on the northwest corner intersection of Hambright Road and Mt. Holly-Huntersville Road and is just south of Burkert. It's across the street from some commercial on the other side of Mt. Holly-Huntersville and then on Hambright Road there are some residences and vacant land and also a power line through that area. A portion of the tract is also wooded.

The Huntersville 2040 Plan calls for this area to be an employment center and so this proposed rezoning is consistent with that. What you see on your screen is included in the agenda packet Staff Report, but I wanted to highlight the existing, current zoning plan as Special Purpose Conditional District, it's kind of indoor and outdoor recreation, as well as all uses in the Corporate Business district. It has 225,000 sq. ft. of building. The proposed rezoning now is going to go to Corporate Business Conditional District. They are asking for a 40' parking setback modification. There is a case on your agenda later on tonight for Text Amendment TA21-10. If that is approved, that will already give them the flexibility that they need and they wouldn't need that special permission. They are also looking to impact the SWIM buffer that drains under 50 acres and that will require a text amendment which is found under TA21-13 and that case will be heard at a public hearing on October 4.

Just to make sure we are all talking about the same locations where the modifications are being asked, this is the site. Hambright Road is the long road that the building is front and so one of the modifications they are asking for is to go from 80' down to 40' in this area. Again, a text amendment later tonight would give that permission. It will be landscaped per the ordinance. The other thing that they are looking for is at the back of the building in this highlighted area here is an impact on the SWIM buffer and so there is a text amendment that would allow an impact on that SWIM buffer with a conditional district rezoning and then they would have to mitigate that impact as well.

Commissioner Bales said prior to this being zoned SP, it was zoned Commercial Business, correct.

Mr. Simoneau said Corporate Business, that's correct.

Commissioner Boone said during the Neighborhood Meeting the representative from Burkert, I think her name was Ms. Norwood, asked to be informed of the production scheduling and the water run-off, has that happened.

Mr. Simoneau said I don't know if the applicant has any update, but Burkert, which is located just to the north of this, did ask to be in the loop on that and hopefully the applicant can address any conversations they might have had with Burkert on that particular issue.

Commissioner Boone said I think being a good neighbor, I think that would be ideal for them to do that.

Cindy Reid, Irvin Law Group, said I'm here to talk with you about TCA Hambright industrial zoning. Jack has done such a good job that we won't go back over everything that he said, but I would like to introduce you to Sherrie Chaffin and Massie Flippin from the Trinity Capital Advisors Group to tell you a little bit about their projects and about their company.

Sherrie Chaffin, Trinity Capital Advisors, said the project, as Jack mentioned, is something that we are passionate about and excited to develop in the Town of Huntersville. We focus as a company on office and industrial and we're excited to take advantage of the robust industrial demand that we have right

now and bring some jobs to the Town of Huntersville. I'll let Massie speak a little bit more about Trinity Capital.

Massie Flippin, Trinity Capital Advisors, said I don't have a whole lot to add. I just wanted to make sure everyone was aware that we are very much focused on quality development and attention to detail and thoughtful development as it relates to how our company operates. We've been in business 20 years, developed and acquired roughly 23 million square feet. Through those years with my partners, 100+ years of experience, 20 years personally of doing just this type of development. I think we've really been able to hone in on what companies and employees want in environments and how to make them a little more special and we try to set the bar when it comes to quality of developments and not just deliver mundane projects. We are looking forward to this one being yet another high quality development.

Ms. Reid said Sherrie is going to go over a few slides that they have so that you can see a prototype of what their products look like. *PowerPoint slides attached hereto as Exhibit No. 5.*

Ms. Chaffin said on the screen you will see some of the examples of our industrial development across the Carolinas. As Massie mentioned, we try to do a little bit more and focus on quality, from the architecture to the landscaping and hopefully that will serve us well here in the town of Huntersville.

This is just a brief location overview. Surrounding land uses – Burkert as Jack mentioned to the north on the slide. We've already talked about the 2040 Plan. One thing that I think was important to point out, we will have industrial traffic with the trucks coming off of Mt. Holly-Huntersville, the car traffic will come off Hambright, so those will be segregated and I think that came up in a question in our Neighborhood Meeting. And then going back to the question I think a commissioner had with respect to the Neighborhood Meeting and the question from Burkert, we did answer the question about the storm water and the run-off and how that would be designed to the satisfaction of the Burkert folks. I think we are set with Diane on that.

Most of these slides are fairly redundant as far as what Jack had already mentioned with the text amendment.

Ms. Reid said this is an example of an existing stream on the site. I don't think that Jack's presentation had any actual pictures, but this is just an example of what the perennial stream looks like onsite. I would like to enter this into the record. I won't go over all of this because Susan just went over this in her last presentation, but this is a program that we use to show the economic benefits to the Town and it's used by the Lake Norman EDC and a number of cities around the country. These are the type of benefits, you've heard this before, so I will not go over it again, but the basic line is that the benefits to the Town from the construction of this industrial center are just shy of \$21 million and the taxes are \$28,000.

Commissioner Bales said in the Staff Report under the Transportation issues, there's some confusion, is this going to be warehouse space or flex space.

Mr. Simoneau said it was requested there be additional follow-up between Engineering and the applicants to make sure we fully understand what the use is. That has occurred. It is clearly warehouse with some minor office, so that has been addressed.

Petition #TA21-13. Mayor Aneralla called to order public hearing on Petition #TA21-13, a request by Trinity Capital Advisors to amend the Zoning Ordinance allowing the Board of Commissioners to approve modification of a SWIM buffer in the Mountain Island Lake Overlay zone through a conditional rezoning process in the Corporate Business zoning district.

Commissioner Walsh made a motion to continue the public hearing for Petition #TA21-13 until October 4, 2021, at 6:00 p.m. to be held at the Recreation Center.

Commissioner Munger seconded motion.

Motion carried unanimously.

Installment Financing Contract. Mayor Aneralla called to order public hearing concerning the approval of an installment financing contract with Pinnacle Financial Partners in a principal amount not to exceed \$8,400,000 for the purpose of achieving debt service savings by refinancing existing installment financing contracts, the proceeds of which were used to finance and refinance the costs of various facilities in the Town, including the Town's police facility.

Jackie Huffman, Deputy Town Manager, said we introduced at the September 7 meeting the idea that we would refinance three pieces of debt. We talked to our financial advisor. They had a very public process and invited 50 firms to offer proposals to refinance debt on our installment financing contract. An installment financing contract is comparable to a mortgage. On the installment financing contract we have at the Police Department, our current debt is issued with First Community Bank at 2.75 percent. The low bid proposal was to replace this with an installment financing contract at 1.25 percent interest. The term of the debt does not change, so it will be outstanding through the end of December 2031, but at that lower interest rate. Our net present value of our estimated savings is \$229,000.

Anthony mentioned earlier tonight that we have the opportunity to refinance the limited obligation bonds (LOB's). It's currently outstanding at an interest rate of 1.775 percent. The interest rate would drop to 1.139 percent. Again, no change to the term, so the debt will be outstanding for the same length of time, but the estimated net present value of the savings on that debt will be \$413,000. Those are the two items that you need to have a public hearing on. You are not required to have a public hearing on the General Obligation debt, but because that's an item on your Consent Agenda, I thought it was worthy that we would include that and show you that the proposal is that we will refinance that debt. The interest rate will go from a true interest cost of 3.2 percent to 1.6813 percent. That will save us an estimated net present value savings of \$337,000 over the remaining term of the debt, which will pay off in June of 2033. We will save almost \$1 million on these three items. *Refer to Exhibit No. 6.*

Mayor Aneralla said no prepayment penalty, right.

Ms. Huffman said that's correct.

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

OTHER BUSINESS

Petition #R21-09. Petition #R21-09 Caldwell Crossing Mixed Use, is a request by CapRock LLC to rezone +/- 38.1 acres East of Old Statesville Rd, Caldwell Station Rd, and South of Mayes Rd from Corporate Business and Transitional Residential (TR) to Traditional Neighborhood Development – Urban

Conditional District (TND-U-CD) for a mixed-use development with commercial, apartments, and townhomes; (Parcels: 01103103, 01103204, 01103205, 01103206, 01103207, 01103208, 01103209, 01103210, 01103211).

Brian Richards, Assistant Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 7.*

This project we went over a few months ago. It's a conditional district rezoning from Corporate Business and Transitional Residential to TND-U-CD. The project contains two multi-family products, a market-rate apartment complex, an age restricted complex as well as townhomes on the perimeter, and in the southwest corner there's some commercial.

They are asking for three modifications. The first is a footprint increase modification. That's limited in the TND district. Staff is in support of that. The last time we met we were working with the applicant on solving a side yard parking modification. We have come to a solution with that. The applicant has offered to move their garages 50' back from the right-of-way and install garages as opposed to surface parking and evergreen screening. Staff is in support of that modification request.

The third, which is a new request that came about during the Planning Board, is a buffer disturbance modification request. As we know, buffers on the perimeter are to remain undisturbed. Due to solving a problem in the northern part of saving the buffer in that area near the historic school and church, they've shifted grading plans south which then impacts the grading for the thoroughfare adjacent to the WDAV radio tower. They have offered to replant that buffer at the rate prescribed in the ordinance and with all that being said, staff is in support of that modification.

They've provided staff with elevations and perspectives, as you can see here. Staff is in support of this. There's a laundry list of TIA requirements. The highlights being a new signalized intersection across from Coach Lane, the closing of Mayes Road and Caldwell Station Road. They will also be offering to build as a part of this a roughly quarter-mile of the Church Street minor thoroughfare as well as a quarter-mile of the Mooresville to Charlotte Trail. As you can see there, the northern railroad crossing is in Cornelius. I spoke to the Town of Cornelius and they are aware of this closing and they are in favor of that as well due to safety and a number of other reasons.

As you can see, the 2040 Plan supports this. There's a number of recommendations that support the plan. We took this to the Planning Board and Planning Board Member Gammon made a motion to approve. It passed unanimously 9-0. Staff is in support of this as well.

Commissioner Munger said a number of different road improvements and things that need to be done, I'm just curious, do you actually own the land that's necessary to do all of these improvements at this time.

Lucas Shires, ColeJenest & Stone, said there is sufficient right-of-way to accommodate all of the improvements.

Commissioner Munger said at one point we had a discussion about the possibility of you reaching out to CMS in regards to the impact on the schools. Did you have a chance to do that.

Michael Cox said I did. I have spoken with a number of people there. The end roads led to a gentleman by the name of Dennis Lacaria. Dennis and I have had numerous conversations about possible ways to

try to help in that. Basically, the answer that has been provided to me is to try to help them find a potential site for an additional middle school in the area. We have been working on that, our team, to try to see if we can find something that makes sense to send it to Dennis. That was the recommendation on how I could help if we wanted to.

Commissioner Bales said because the sound in here is sometimes bouncy, did you say that Mr. Lacaria said that he needed to look for land for a middle school.

Mr. Cox said the impacts from the middle school, if you look at the percentages, was the one that was above capacity the most and so he said that really there's nothing he can do other than the Town would need another middle school. I think more it was off the cuff, just if you have a site that would be suitable, we would love to see it.

Commissioner Bales said CMS has a property identified for a middle school currently.

Commissioner Phillips said when we had the public hearing I asked if there was a way to maybe do some kind of affordable housing component or for seniors. Is that something you guys were able to work out.

Mr. Cox said 20 percent of the units within the senior living facility will be set aside for those with income that are 50 percent below the area median income.

Commissioner Hines said on the TIA, have you talked to Norfolk Southern about the rail crossings.

Mr. Cox said we actually have our first bit of new news, not good or bad. Norfolk Southern has reached out as of this morning and let us know that by the end of the week they are hoping to provide us with comments on all of our proposal, but as of right now I have no comments from Norfolk Southern in terms of how they stand on our proposal.

Commissioner Hines said so if they choose to not close a rail crossing, then will it be kind of administrative, you all will go back and forth if this were to get approved because it shows they have to do a revised TIA.

Mr. Richards said we would have to see what that revision would contain. Odds are we would be back in front of the Board at some point in time for a modification.

Commissioner Walsh made a motion in considering the proposed rezoning application #R21-09, Caldwell Crossing Mixed use, the Town Board approves based on the plan being consistent with Policies LU 2.1, 5.1, 6.1, 7.1, 9.1 and EV 1.3 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the rezoning plan because the rezoning plan is consistent with the envisioned uses and development pattern set forth in the 2040 Community Plan. The Town Board approves with the following: increasing the first floor footprint to 8,500 sq. ft. for a total of 12,500 sq. ft. for each commercial building; allow side yard parking between apartments B and C, E and D, and H and I with screening of a 50' setback of garages and evergreens; allow the 20' buffer to be disturbed next to the eastern project boundary to install retaining walls and grade for the BMP, which is next to an existing radio tower; and address all outstanding redline comments from staff and any revisions by NCDOT.

Commissioner Munger seconded motion.

Motion carried unanimously.

Petition #TA21-09. Petition #TA21-09 is 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. 8.*

This is Text Amendment #TA21-09, Strategic Capital Partners. This is a map of Huntersville's 63 sq. miles. The blue lines that you see are streams and the blue that surrounds them are kind of the SWIM buffer areas and just to be clear, the text amendment is affecting the SWIM buffers that are intermittent streams and streams draining less than 50 acres, but it does not impact the Mt. Island Lake Overlay. As you look at the map here, I'm going to put on the dark blue lines, that's the Mt. Island Lake Protected Watershed area. We have different zones, but in essence, basically, the western half of Huntersville drains into Mt. Island Lake and so that has an additional layer of protection. I just wanted to be clear that this text amendment is not involving that. The public hearing we will have on October 4 will be talking about that, but I just wanted to be clear that this is not impacting those watershed protection buffers. Those are separate.

The text amendment has not changed since the public hearing. It would allow someone in a Corporate Business district through a conditional district rezoning to impact an intermittent stream and a perennial stream that drains less than 50 acres, that's Part 1. Part 2 modifies one of the nine mitigation options, that's Option #5, and just make sure that we don't double count the protecting of the hardwoods that would be required otherwise with our buffer requirements, so we didn't want to have that double count, so that's what the language is in Section 2. And then Section 3 is simply an adjustment to indicate that the water quality also is affected by this text change. The Planning Board and the Huntersville Ordinances Advisory Board did recommend approval of this request as does the Planning Staff.

Commissioner Munger made a motion in considering the proposed amendment #TA21-09, the Town Board recommends approval based on the amendment being consistent with Policies LU 8, EV 1 and EOS 1, of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because the amendment allows greater flexibility and an additional option to impact SWIM buffers subject to a conditional rezoning and mitigation.

Commissioner Boone seconded motion.

Commissioner Boone said I think it's important to note Rusty Rozzelle, Water Quality Program Manager for Charlotte-Mecklenburg Storm Water Services, is in favor of this proposal.

Motion carried unanimously.

Petition #TA21-06. Petition #TA21-06 is a request by Jason Richardson to amend Article 3.2.1 (e, 6) and Article 3.2.2 (e, 6) of the Huntersville Zoning Ordinance to allow detached garages in the side yard of home lots in farmhouse clusters.

Lauren Speight, Planner II, entered the Staff Report into the record. *Staff Analysis and Staff PowerPoint attached hereto as Exhibit No. 9.*

This is a proposal to change the location allowed for detached garages in farmhouse clusters only. The other regulations for accessory structures and detached garages will still apply. Impervious area requirements, watershed requirements and neighborhood covenants and restrictions still apply, although the Town does not enforce those neighborhood covenants and restrictions and if a farmhouse cluster does not have an opaque vegetated buffer at the time that someone is requesting for a detached garage in a side yard, then it will be required before zoning approval.

Staff is in favor of the text amendment because the regulations for farmhouse clusters already have significant requirements for screening, vegetation, open space, etc. and the Huntersville Ordinances Advisory Board for the Town, as well as Planning Board have recommended approval as well.

Commissioner Munger made a motion in considering the proposed amendment #TA21-06 to amend Article 3.2.1 (e, 6) and Article 3.2.2 (e, 6) to allow detached garages in the side yard of home lots in farmhouse clusters, the Town Board recommends approval based on the amendment being consistent with Policies LU 7.1 and LU 9.2 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it allows home lots in farmhouse clusters to minimize grading and maintains a generally rural appearance of a farmhouse cluster a public street view.

Commissioner Boone seconded motion.

Motion carried unanimously.

Petition #R21-08. Petition #R21-08 is a request by the property owners of Parcel IDs 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.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Analysis and Staff PowerPoint attached hereto as Exhibit No. 10.*

This is a significant project for Corporate Business. The proposal is for the three buildings that you see. It is possible there could be some modification of some of these buildings, but the concept is to get a reduction of the buffer yard and also impact the SWIM buffer.

What this plan shows you is the connection to the south, that's Alexandriana and then there will be a new road that goes all the way up to the north and connect at the northern property line which is Hambright Road and I-77. The project that you see in the upper left-hand corner, that's the proposed Charlotte Area Transit Park and Ride facility, so these two projects will work hand-in-hand and create a new street that will connect Hambright Road all the way down to Alexandriana.

The proposed rezoning plan is over a million square feet of office, warehouse and distribution use. As indicated now, it's three buildings. Again, some of these plans could change based on tenant needs and that's noted on the plan. That does include the new street frontage. It will be from Corporate Business to Corporate Business Conditional District and the modifications are to have the 80' buffer reduced. We just amended the text to address that, so you might not have to see these in the future. There also is a disturbance of an I-77 buffer and the SWIM buffer, so the text amendment that was just approved will allow an impact of a perennial stream draining less than 50 acres. They will have to mitigate. That mitigation plan has been prepared and run through Rusty Rozzelle of Mecklenburg County Water Quality.

Staff recommends approval provided that SWIM buffer which was approved is done, the updated tree mitigation plan submitted showing conformance with 7.4 which they are working on, minor comments on the plan be addressed, and that all the TIA improvements that are recommended are added to the plan. The applicant has agreed to do that and we stated all the consistency of the Land Use Plan with the proposed development. The Planning Board did recommend approval as well with the same staff comments.

Commissioner Boone made a motion in considering the proposed rezoning petition #R21-08, Beltway 77 Industrial, the Town Board recommends approval of the amendment being consistent with the 2040 Community Plan Policies LU 1.1, LU 5.1, LU 7.1 and the Economic Development Goal to maintain the current percentage of tax revenue in non-residential uses. It is reasonable and in the public's interest to amend the Zoning Ordinance because the proposed zoning CB is the same as the current zoning and therefore no additional uses are allowed due to the plan. The Board's recommendation is subject to five conditions: (1) that the SWIM buffer amendment is adopted and mitigation is approved; (2) the TIA is accepted and all required mitigation is committed to by the applicant; (3) updated tree mitigation plan is submitted showing conformance to Article 7.4; (4) the rezoning notes are amended to keep the general design of the buffer, the street and the frontage conditions; (5) the minor comments on the plan addresses the prior to final approval.

Commissioner Walsh seconded motion.

Motion carried unanimously.

Petition #TA21-10. Petition #TA21-10 is 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.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 11.* There's not been any changes to the text amendment since the public hearing. In essence what we are doing is today the ordinance says in these three different zones you can either build your building up to the street or have an 80' buffer. Under the proposed change, that 80' buffer goes down to 40' on thoroughfares and if it's a street that's internal to an industrial park, it goes down to 20'. It's still landscaped per the ordinance and staff recommends approval of this, as does the Planning Board.

This should help reduce some of the rezoning cases that are coming before you. Multiple ones have come before you to reduce this buffer, so this goes ahead and just codifies it, so they don't have to take that extra step.

Commissioner Boone made a motion in considering the proposed amendment #TA21-10 to amend Article 7.5.3 to add flexibility to the CB/Commissioner Phillips/CI buffer, the Town Board recommends approval based on the amendment being consistent with the 2040 Community Plan Policy LU-7.1 and EV-2. It is reasonable and in the public interest to amend the Zoning Ordinance because the amendment would allow economic development site design flexibility, while preserving the aesthetics of the public street and pedestrian realm.

Commissioner Walsh seconded motion.

Motion carried unanimously.

Ranson Road Subdivision Sketch Plan. Mayor Aneralla called to order quasi-judicial hearing.

Mayor Aneralla called to order quasi-judicial hearing on Ranson Road Subdivision Sketch Plan, a request by Blue Heel Development to subdivide 12.42 acres of land located on Ranson Road to create a 36-lot single-family subdivision.

This is a little bit different, as I tried to tell some of you earlier, than the public hearings that you heard. I will read a bit of a script and then we are going to swear you in. People have standing typically if they are adjoining landowners.

A quasi-judicial hearing is an evidentiary hearing in nature. The Board must base quasi-judicial decisions upon competent, relevant and substantial evidence in the record.

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

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

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

Quasi-judicial hearings are constrained by the standards in the ordinance and the facts presented. Only parties with standing including the applicant, local government and individuals who can show they will suffer special damages, have the right to participate fully in the hearing. Parties may present evidence, call witnesses, and make legal arguments. Other individuals may speak as a witness, however they will not be allowed to participate fully as a party such as by questioning other witnesses or by calling other persons to testify. Witnesses must be sworn or affirm their testimony. General witness testimony is limited to facts, not personal preferences or opinions.

Certain topics require expert witnesses, including projections about impacts on property values and traffic impacts. Individuals providing expert opinion testimony must be qualified as experts and provide factual evidence upon which they base their expert opinion. Mere conclusory testimony lacking foundation of the expert's opinion is insufficient to establish the existence or non-existence of a fact or conclusion. Even though the Board may rely on other evidence if it is not objected to, the Board should rely on competent, reliable evidence in making its decision.

Let's call first our staff and the applicant and then I'll call several people that signed up. Please introduce yourselves and then I will swear you in.

Mack Gallagher, Blue Heel Development.

Matt Levesque, ESP Associates.

Stephen Trott, Director of Engineering with the Town.

Brian Richards, Assistant Planning Director.

Mayor Aneralla swore in Mack Gallagher, Matt Levesque, Stephen Trott and Brian Richards.

Mayor Aneralla said we have several people that have signed up – Patrick McHale, Susan Ckinzler, David Self, Tim Harper and Kellie Harper.

Patrick McHale said my name is Patrick McHale.

Mayor Aneralla said you live adjacent to the rezoned property.

Mr. McHale said that is correct.

Susan Ckinzler, said I'm Susan Ckinzler and I live adjacent to the property.

David Self said my name is David Self. I live adjacent to the property.

Tim Harper said Tim Harper. I live adjacent to the property. My wife Kellie Harper had to step out, we have young children at home, so she had to go.

Mayor Aneralla said we are going to swear you all in and then after the applicant and the staff have talked, we will ask you to come back.

Mayor Aneralla swore in Patrick McHale, Susan Ckinzler, David Self, and Tim Harper.

Mayor Aneralla said the parties in this case are entitled to an impartial board. A board member may not participate in this hearing if he or she has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with the affected person. Does any board member have any partiality to disclose or conflict of interest to offer at this time.

Mayor Aneralla said I know Mr. Gallagher. He's had a couple of things in front of us, that's about it. I'm sure a lot of you do as well.

The parties to this case have rights for any ex parte communication to be disclosed. Ex parte is any communication about the case outside of the hearing. That may be email communications, as well as conversations with parties, staff, or the general public. Does any board member have any ex parte communications to disclose.

None were disclosed.

Mayor Aneralla said based on the disclosures we've heard or non-disclosures we've heard from the Board concerning partiality and ex-parte communications, does any member of the Board or any party to this matter have any objections to the Board's participation in this hearing.

There were none.

Brian Richards, Assistant Planning Director, said at this time I would like to submit my report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 12.*

This is a by-right subdivision, Ranson Road Subdivision, located on Ranson Road. The zoning is Neighborhood Residential. As you can see here, it's occupied by two single-family homes. The northern part is just going to be a portion of this subdivision. The southern part has one home and some accessory structures.

The proposal is for 12.42 acres to be subdivided for 36 single-family homes which is 2.89 dwelling units per acre. The overall open space being provided is 1.6 acres. They will be meeting their urban open space requirement providing three types – a square, a plaza and a green, for a total of 15,383 sq. ft. of urban open space.

A tree survey was done. They are meeting our tree save requirements. There's 80 existing specimen trees on site and they are going to be saving 19. There are no heritage trees on the site.

The applicant is asking for a block length modification. This came about as a direct result from the Neighborhood Meeting that was held back in March earlier this year. As you can see on the righthand side, the original design of the subdivision had I think six or seven more homes and a small cul-de-sac adjacent to the Timberview neighborhood. As I said, the applicant worked with the neighbors. They have revised the subdivision and Cask Way has been looped back down into Quercus. They've also offered to have four larger lots on the outer portion of the subdivision as well as some additional open space. We do have that block length waiver. They are requesting the length to be 1,043' and staff is in support of that due to the redesign and the better compatibility with the adjacent subdivision. As you can see there's a context map of the area.

In regards to the 2040 Community Plan, the project is located in the Town Core. You can see a number of supporting materials from the Community Plan. Our staff recommendation is we find the application is complete. The request is in keeping with the spirit and intent of the Town's future land use plans as mentioned above. The Ranson Road Subdivision Sketch Plan can be supported by staff subject to the following: (1) that the block length modification request is approved; (2) we work with the applicant in maximizing the amount of on-street parking; and (3) other plan comments are addressed.

The Planning Board recommended approval on Tuesday, August 24. I'm here to answer any questions you may have.

Mayor Aneralla said any questions of staff.

Mayor Aneralla said any questions of the applicant. Would the applicant like to present?

Mr. Gallagher said our presentation is pretty much a mirror image of what Brian just did, so I'm here to answer any questions. Matt will take any technical questions from the engineering side if there are any, so ask away.

Commissioner Munger said one of the staff comments was will any additional on-street parking be accommodated. Is that something you are looking to address.

Matt Levesque said yes, that is something. What we are showing right now is just the on-street parking along some of the open space areas. We will have additional on-street parking on the roads in between some of the lots where it will fit in between the driveways. Obviously, we don't have those locations yet, so it's something we are going to work with staff on and then also the right-of-way from the first

intersection out to Ranson Road has now been widened, so there's room for additional parking along that street frontage, depending on where that need arises, so there will be additional parking.

Commissioner Munger said are there any opportunities for connectivity to our greenway to run through.

Mr. Richards said there's no greenway in the area.

Commissioner Munger said the last one is more of a comment and I'm sure the Mayor will tell me I can't ask the question, but I'm going to. You sent a letter of March 5, 2021 detailing a meeting that was going to be March 18, 2021. I find it interesting that you sent it to former commissioner Mark Gibbons, former commissioner Charles Guignard, former commissioner Rob Kidwell and former commissioner Danny Phillips. You might want to update and make sure that you get it to the right people.

Mayor Aneralla said any other questions before we ask Commissioner Boone.

Commissioner Boone said I've got a question about Timberview Lane. That's a private road I believe and what is the buffer between Timberview Lane and the new lots. What's the distance there.

Mr. Gallagher said I'll have Matt give the specific number, but we have a 20' required buffer and then we extended it the full rectangle.....there is now all additional buffer on top of 20, but Matt will give the specifics.

Mr. Levesque said along lots 5, 6, 7 and 8, which are the four larger lots in the back of the community, that was a result of the Neighborhood Meeting, there's additional tree save that has been added there. That's the kind of a square that you can see....the northeast corner of the plan....those lots are 140' deep there and that distance from the back of the lot to the undisturbed buffer is more than 140'. I don't know the exact dimension, but it's in excess of 150'-160'.

Commissioner Bales said in each of these blocks up here, are those both BMP's.

Mr. Levesque said no, only the BMP's to the left or the northwest quadrant, open space, tree save to the northeast.

Commissioner Bales said and that open space tree save does that abut Timberview.

Mr. Levesque said it's close. It abuts the required 20' buffer and then there's some additional property on the other side of that that is central to Timberview as a private road.....it goes to the middle of the road approximately, so it's property we are not purchasing or don't have in our contract to purchase, so it's our tree save, the 20' buffer, and then there's a little bit of the Timberview right-of-way. It's a prescribed 60' right-of-way even though Timberview is probably only 14' wide.

Commissioner Bales said correct, but there's no connection onto Timberview.

Mr. Levesque said no connection.

Commissioner Bales said because that was a concern that I had.

Mayor Aneralla said let's have Mr. Patrick McHale come up.

Patrick McHale, 15235 Timberview Lane, said as I mentioned before I have property adjacent to the property in question and I've lived where I currently live at 15235 Timberview for 36 years, so I'm one of the original landowners in that community. First and foremost, I wanted to thank you for letting me talk to you this evening. I know you work long hours and don't get a lot of thanks for it, so I appreciate what you do for the residents of Huntersville, and I've been a resident of Huntersville since it had 2,500 people, so things change.

The item I would like to discuss tonight is of utmost importance to our small community and also to the greater Ranson Road corridor. Under the Freedom of Information Act I was able to review some correspondence between Blue Heel Development and the Huntersville Planning Board that occurred mostly in the last quarter of 2020. I wanted to applaud Blue Heel Development for asking a lot of the right questions back in October 2020 regarding covenants, deed restrictions and agreements. I noticed in the information that I was reading that the Irvin Group was requested by Blue Heel to do a deed search and a covenant review and in that they reviewed book 4126 page 375.

I don't want to bore you with a lot of details, but that's not the book and the deed restriction that our community is affected by. The communications between the planning group and Blue Heel asked questions like are there deed restrictions and the answers were they don't apply. In the Irvin Group's opinion said that they didn't apply, but in fact they were reviewing the wrong book, because the deed restrictions that we are under were written in 1982, not 1978. That's the concern that I have is that I think that there was some influence early on that promoted some decision-making based on information that might not have been completely accurate. The deed restrictions we have in effect require a single-family residential dwelling on each lot and each lot is defined by its perimeter.

In February 2021 Judge Hoover rendered that the 1982 covenant restrictions did apply to 15215, which is the property in question, and that the deed restrictions go with the land. The deed restrictions actually say that. The judge also reiterated that as well. In my opinion the title review conclusion that the Irvin Group arrived at was based on a review of the wrong deed restrictions. They were in the wrong book and on the wrong page. They should have been reviewed based on the 1982 deed restrictions versus the 1978.

I would respectfully request that the Town Board reconsider their deliberations on the Planning Board's Blue Heel Development submittal until an accurate and valid covenant restriction review and opinion can be obtained. Additionally, the proposed development would severely impact the safety of the entire Ranson Road community, including Rosedale, Cobblestone and Huntson Reserve subdivisions.

Mayor Aneralla said Mr. McHale, are you an attorney.

Mr. McHale said no.

Mayor Aneralla said are you an expert on traffic safety.

Mr. McHale said no.

Mayor Aneralla said I told you this was going to happen, so remember we have to deal with the facts. Are you a deed expert.

Mr. McHale said no. I think that concludes my concerns. I thank you very much for giving me the time and the opportunity.

Mayor Aneralla said Ms. Susan Ckinzler.

Susan Ckinzler said I'm going to waive my right to speak. Thank you.

Mayor Aneralla said if you decide, come back. David Self.

David Self said I'm an adjacent owner. The little green section where the tree save is at, I'm just north of that at 15212, my wife and I own the property. What I'm asking this Board to do is neither approve nor deny the request. What I'm asking this Board to do is to continue the hearing because there is ongoing litigation between the eight homeowners on Timberview and Susan Ckinzler. That litigation is ongoing. It is pending in Superior Court of Mecklenburg County and as of right now there is no signed settlement agreement and the litigation is not over. Everyone of those or this drawing up here that's on Susan Ckinzler's property violates the current CCR's and that is why we are litigating and that is what Pat McHale was referencing. Until we have ended litigation and a signed separation agreement is wishful thinking.....I am asking that this Board pause until the parties can come to an agreement or the litigation ends. That's what I'm asking you to do.

The second thing that I have is concerns regarding the transparency between the communication of the Town and the people on our street. In October 2020 we got wind that there was going to be a development. Susan Ckinzler would not tell us who the developer was citing a non-disclosure agreement. I don't know if there is a non-disclosure agreement, but she wouldn't tell us, so people in our community reached out to the Town to find out who the developer was. Karen Martin who lives on our street who is a litigant in the litigation against Susan Ckinzler tried to find that information out. And I have some emails if you would be inclined to consider them. *Emails attached hereto as Exhibit No. 13.* These emails were obtained through a Freedom of Information Request that was sent to the Town. What I want to draw your attention to is that on November 20 there was a meeting between Blue Heel and I believe ESP was there, engineering, surveying and planning, and Brian Richards and Sierra Saumenig, and I have that email confirming that there was a meeting. I also have from the Freedom of Information Request an email from Matt Mandle to the Town showing a very detailed rendering that they were going to do. This was sent in November. On November 24 Karen Thomas sent an email to Sierra. I have that email as well, it's November 24. As per our conversation I'm reaching out to ask for information that can be shared from the meeting. Didn't get a response. On December 2, Karen followed-up with Sierra. I know that you offered to let me know when the developer submits to the Town, but my neighbors are asking me if you've heard anything. Have you heard anything. That's on December 2, almost two weeks after a meeting and almost two weeks after ESP had submitted this drawing right here. Sierra responds back, likewise nothing has been submitted yet. I guess we could [inaudible] the language of what is submitted and what is not submitted, but when ESP submits plans to the Town via email and people in this community are asking who is the developer, what are they trying to do. We should get straight answers and how does it impact this directly. We were trying to negotiate with Blue Heel because we wanted to get something similar to this, but we couldn't. Susan Ckinzler wouldn't tell us who it was and the Town of Huntersville wouldn't tell us who the developer was.

Mayor Aneralla said Mr. Self, I appreciate the passion. You obviously have some emails and you are welcome to put those in the record and so forth. What we are discussing here today is the approval of this development and it's really boiling down to the block length waiver and on-street parking. Do you have anything in reference to that and we will take this and it will go into the record, but do you have anything in reference to those particular issues.

Mr. Self said I will go back to the fact that this hasn't worked its way through the litigation process and there is no signed agreement, and I would ask that this Board withhold judgment until it has worked through the litigation or we have an agreement.

Mayor Aneralla said do you have I guess whatever the litigation is, court case number.

Mr. Self said I could probably look that up on my phone if you give me a few minutes.

Mayor Aneralla said you don't have to get it right now, but if you could give it to us and give it to the Town Clerk.

Mr. Self said I will do that. Thank you for your time. Also, I reiterate what Pat said. Thank you for your service. Quite honestly, I don't know how you all do this, but thank you.

Tim Harper, 15125 Timberview Lane, said unlike Pat we are the newest members there. We have lived there for just over a year now and we've been in litigation for a year now. We saved for 20 years to buy our home, bought it, had this dream to raise our kids in this community and we've been in litigation for a year. I'd just like to echo what David said, that we are in a lawsuit right now. We ask you to hold so that we can finalize this. We appreciate working with Blue Heel, but nothing is signed. Nothing is finalized, so I don't see how something can be approved when it's opposed to what the laws say. That's all I have.

Susan Ckinzler, 15215 Timberview Lane, said thank you so much for letting me come. And I appreciate you letting me go last. I recognize that this is a very emotional discussion between our neighbors and you guys have your job to do, Blue Heel has their job to do, and I think we need to do the best we can. I had a long, emotional dissertation I was going to give you, but I think I'll just stick to the facts.

Mayor Aneralla said just for clarification, you own all this property.

Ms. Ckinzler said I own the property.....can someone help point to my property.

Mr. Richards said she owns the northern part in the red boundary.

Ms. Ckinzler said see that black line that goes kind of almost horizontal along that side. The Town of Huntersville has a restriction in terms of being able to subdivide property on a private road. Timberview is absolutely a private road. There is no subdivision that's allowed to be done on a private road and I've never tried to question that when I've come to the Town.

I've lived in Huntersville for 30 years. I've lived on Timberview for 20 years and so I've been there a long time and when I bought this property it was for a number of reasons, but one was for an investment. When I started to try to figure out, well I'm going to back up and say I went to the bank for some reasons to try to lend some money that I needed at the time, and the bank basically said we'll give you a loan on your house and your immediate property around your house. The rest of your 7 acres we are not going to give you any value associated with that as it relates to lending value.

At that point, I realized gosh my only option is to subdivide. I didn't realize at that point in time that you couldn't subdivide on a private road, so once I learned that I said okay, that's out, I can't subdivide. Then I find out that Chris Ferrell who owns the property to the south or whatever, below that line, puts her property up for sale to a contractor and at that point I contacted Chris and I said what are you

thinking. She said I'm selling for all my personal reasons and I only want to sell this to a contractor for all of her personal reasons and at that point I started investigating, wow this is a way I can actually receive some investment off of my property that I've had for 20 years.

I'm not going to bore you with all the emotional stuff about how hard it was to keep it, but it took a lot for me to be able to do that. I said I'm not going to try to do anything about the private road, there will be an ability to have an access outside of the Timberview Lane and so at that point in time I began to pursue the opportunity for me to sell my property which belongs to me at this point in time. I'm blessed, I have no mortgage on it. It is all mine. In conjunction with the sell of the property, I'm not breaking any laws, I'm not asking the Town to allow a street to open up onto Timberview. To the contrary, I feel bad for Tim and Kellie because the previous owners knew what the plan was going to be for the property. They did not know who the developer was because I am under and still under a non-disclosure agreement under that contract. Whether anybody believes it or not, it's the truth.

At this point in time, I'm just asking the Town to keep the Town regulations first and foremost. It is an emotional decision, but there is nothing that is preventing this from happening in terms of the codes. I have lived by the codes of the Town. Again, I did not come to the Town and ask for there to be any exception on private road, even though that was very disappointing to me.

I believe that those are the facts and that those are the facts that you should be using to base your decision. What happens with my personal litigation relative to my neighbors is my business and my neighbors' business. It's not the Town of Huntersville's business. You are not responsible to comply with CCR's or make sure that CCR's are complied with. You are responsible for following the regulations of this town in making sure that we are not as a community going outside of those. I, too, appreciate all that you are doing. I apologize because I've never come to a hearing or any of your board meetings and I can tell you having been here for this one, my hat is off to you and I just appreciate tremendously all that you do.

Mayor Aneralla said any questions right now. Mr. Richards, you want to address some of the things that we just heard.

Commissioner Phillips said should we tap Emily in so she can tell us what we need to do.

Mayor Aneralla said we're going to get there.

Mr. Richards said I'm here to answer any questions. I'm not privy to any of the private litigation that's occurring between the neighbors.

Mayor Aneralla said Ms. Sloop, do you have any comments on what you have heard.

Emily Sloop, Town Attorney, said I would just agree that private litigation is not what is being discussed here tonight. The compliance with the ordinance is what is being discussed.

Mayor Aneralla said any other questions.

Commissioner Bales said this question, I believe, is for Ms. Sloop. In regards to deed restrictions, etc., that has no bearing here.

Ms. Sloop not as in terms of whether or not there is compliance with the ordinance, no it does not.

Mayor Aneralla said for all those that are still here, you have the ability as landowners to ask either staff or the applicant questions at this time.

Unidentified resident asked if he could speak.

Mayor Aneralla said no, you can't, I'm sorry.

Commissioner Hines said this is quasi-judicial, which means basically a use by right. Based off of the current zoning, they can do what's before us. That's permitted under our ordinance. Before us, also, is two modification requests. Based off of what we are hearing tonight about.....

Mr. Richards said just one modification.

Commissioner Hines said excuse me, thank you. What you said earlier, based off of land use, so with them being in litigation and whether or not whatever happens with that litigation, whether or not she can actually sell it to do this, is not anything we can consider tonight at all.

Ms. Sloop said no. Obviously, if there was a later court order or something of that nature that would affect this development then yes, but as of right now, no.

Ms. Ckinzler said because the lawsuit is public record and because we've already had one day in court, I do think it's important though for you all to know.....

Mayor Aneralla said Ms. Ckinzler, we're really not debating that. If you want to submit that.....

Ms. Ckinzler said what I'd like to submit is that there was a part of the original lawsuit that was a preliminary injunction so that all of this would stop immediately and that was denied by the same Judge Hoover that Mr. Self mentioned.

Mayor Aneralla said does the Board have a clear understanding of where we are. Is there any other questions, discussion, motion.

Commissioner Walsh made a motion in considering the Ranson Road Subdivision Sketch Plan, we the Town Board find the application is complete. The application is consistent with the 2040 Community Plan including Policies LU 2.1, POS 4.3, 5.3, 8.3, T 3.1 and 3.2. The sketch plan complies with all applicable standards. All of the following items must be addressed: the block length modification of Cask Way of 1,043' is approved as the road design allows for additional open space on the east side of the development and creates a better transition to the Timberview neighborhood; coordinate with staff to maximize on-street parking; no construction traffic should be permitted through Cobblestone Manner; and all outstanding redline comments from staff are addressed. I'd like to make a motion to approve the Ranson Road Subdivision Sketch Plan.

Commissioner Phillips seconded motion.

Mayor Aneralla said as a reminder the Board is tasked with deciding if, based on the evidence presented at the hearing before us, this proposal meets the applicable standards. If the applicant meets their burden of producing competent, material and substantial evidence that the standards in the ordinance will be met, the burden shifts to the other parties opposing the application to show by competent

material and substantial evidence that the standards in the ordinance will not be met. The application as originally submitted was considered by the Planning Board and the Planning Board made a recommendation. Nothing that occurred at the Planning Board level, including the Planning Board's recommendation, is considered evidence that you can base your decision on. However, the Planning Board's recommendation may be useful to the Board in identifying issues that this Board may want to consider and evaluate based upon the evidence that was presented at the hearing before this Board. We have a motion, we have a second. Any other discussion?

Commissioner Boone said I've got to make a clarification here that when this hearing started, I did not mention that I knew anything about this. The names and the people that spoke today refreshed my memory and I have spoken to two or three of these people when I drove out there to investigate this, but it won't have any bearing on my decision.

Mayor Aneralla called for the vote.

Motion carried unanimously.

Staff will draft and I will sign a final written decision to reflect the vote and reasoning for this decision. The written decision will be provided to the applicant and the other parties with a right to such notice. Thank for all for attending our Ranson Road Subdivision hearing.

Memorandum of Agreement – Opioid Litigation Settlement. Emily Sloop, Town Attorney, said this Memorandum of Agreement is related to a national settlement in relation to litigation that was against opioid manufacturers and distributors. As a condition of the national settlement agreement, individual states have been requested to enter into Memorandum of Agreement with local government units with regards to how the funds from the settlement will be spent to help remediate opioid abuse. Huntersville, because we have over 50,000 in population, has been asked to sign on to the MOA for Mecklenburg County to ensure that the funds come at the highest dollar amount for the county.

Commissioner Phillips said I want to throw some statistics in here before I make this motion. I'm a volunteer at Queen City Harm Reduction and they work with the populations that will be impacted by this. If someone participates in a harm reduction program, their chances of getting sober is five times greater than someone who doesn't participate. Through Queen City Harm Reduction since January 2018, 4,893 Naloxone/Narcan have been distributed in Mecklenburg County. Of those, 1,220 have been reported to be used to reduce overdoses. Since January 2021 through August of this year, there have been 1,307 Naloxone/Narcan distributed and 309 reversals in Mecklenburg County. There are people that do not report reversals, and deaths are not reported. These are successful reported numbers by participants. These numbers also include overdoses that have happened in Huntersville. In 2021 alone there have been over 1,000 interactions between volunteers and employees with people who are using opioids. These are numbers just from the non-profit I volunteer with. These numbers do not include data from other agencies, first responders, or hospitals. The numbers also do not include non-reported overdoses from people who have obtained Narcan/Naloxone on their own, which can be done at any pharmacy. While this lawsuit won't solve the opioid crisis, we do have one here in Huntersville and I'm grateful that we are joining this and I think it's a step in the right direction to right many wrongs and potentially save lives in the future.

Commissioner Phillips made a motion to approve the Memorandum of Agreement between the State of North Carolina and local governments on proceeds relating to the settlement of opioid litigation.

Commissioner Boone seconded motion.

Motion carried unanimously.

Memorandum of Agreement attached hereto as Exhibit No. 14.

Commissioner Hines motion to approve consent agenda.

Commissioner Munger seconded motion.

Motion carried unanimously.

CONSENT AGENDA

Approval of Minutes. Commissioner Hines made a motion to approve the minutes of the September 7, 2021 Regular Town Board Meeting. Commissioner Munger seconded motion. Motion carried unanimously.

Budget Amendment – Non-profit Funding. Commissioner Hines made a motion to approve budget amendment appropriating Fund Balance in the amount of \$35,000 as discussed by the Board at the pre-meeting on September 7 for the following agencies: Ada Jenkins Center \$5,000 (increase to FY 22 budgeted \$15,000); Angels and Sparrows \$5,000; Caterpillar Ministries \$15,000; and Hope House Foundation \$10,000.

Commissioner Munger seconded motion.

Motion carried unanimously.

Bond Resolution – Refunding Taxable GO Bond. Commissioner Hines made a motion to adopt Bond Resolution for the Taxable GO Bond to advance refund the 2013 Bonds. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 15.

Bond Resolution – Refunding Tax-exempt GO Bond. Commissioner Hines made a motion to adopt Bond Resolution for the Tax-Exempt GO Bond to refund the Taxable GO Bond as contemplated by a Forward Delivery Agreement. Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 16.

Resolution – Refunding Installment Financing. Commissioner Hines made a motion to adopt Resolution for the Installment Financing to refund the 2011 installment financing (tax-exempt) and the 2012 LOBs (taxable). Commissioner Munger seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 17.

ADA Transition Plan. Title II of the Americans with Disabilities Act (ADA) regulates programs, activities and services provided by state and local governments. As such, Town of Huntersville must comply with this section, which states: “no qualified individual with a disability shall, by reason of such disability, be

excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity” (42 USC Sec. 12132; 28 CFR Sec. 35.130). In accordance with Title II, the Town of Huntersville conducted an ADA compliance self-evaluation of its services, programs, activities, and facilities on public property and in public rights-of-way. With this information, an ADA Transition Plan has been developed to share findings of the self-evaluation and to establish strategies for improving ADA accessibility within our community.

Commissioner Hines made a motion to adopt ADA Transition Plan. Commissioner Munger seconded motion. Motion carried unanimously.

ADA Transition Plan attached hereto as Exhibit No. 18.

CLOSING COMMENTS

None

There being no further business, the meeting was adjourned.

Approved this the 18th day of October 2021.