

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**October 18, 2021
6:00 p.m. – Huntersville Recreation Center**

PRE-MEETING

None

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

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Recreation Center, 11836 Verhoeff Drive, at 6:00 p.m. on October 18, 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

- Next meeting of the Metropolitan Transit Commission is October 27.
- The Charlotte-Mecklenburg Historic Landmarks Commission will meet on October 20 to discuss historic designation of the Rosenwald School.

Commissioner Hines

- Wished his wife happy anniversary.
- Next meeting of the Charlotte Regional Transportation Planning Organization is October 20. Commissioner Boone will be attending that meeting.

Commissioner Bales

- Next meeting of the Municipal Education Advisory Committee is October 20.

Commissioner Munger

- Attended the Huntersville Ordinances Advisory Board meeting on October 7.
- Attended the Centralina Regional Council regular meeting last week.
- Consider supporting local non-profits.

Commissioner Walsh

- Provided update on upcoming Parks & Recreation events.
- Provided update from the Huntersville Regional Chamber.
- Provided update from Visit Lake Norman.
- Next meeting of the Greenway, Trail and Bikeway Commission is tomorrow night.
- Suggested Town consider investing in public art, starting with the art piece for the trailhead for the Vine Greenway.

Commissioner Phillips

- American Legion Post 321 is having a chili cook-off this Friday.
- Veterans Day Parade applications are due this Friday. The parade will take place on November 13.
- StarMed will be offering a COVID testing pop-up clinic this Wednesday at Bradford Park.

Commissioner Boone

- Provided update from the Lake Norman Chamber of Commerce.
- Huntersville Police Department will be attending a number of upcoming community events.
- Boy Scout Troop 19 will be picking up campaign signs following the election as a fundraiser.

Commissioner Bales requested the Deputy Manager give an update on the meeting with bond counsel regarding the refinancing the Board approved on September 20.

Jackie Huffman, Deputy Manager, said you took action to approve three pieces of debt refinancing at the second meeting in September. The Local Government Commission approved that debt on October 5. Our financial advisor chose a closing date October 21. We have pre-signed the closing documents. It will be official on October 21. I personally have been in local government 26 years and I have never been an issuer of LOBs (Limited Obligation Bonds), so I had a fair amount to learn. There is not a ton of new information about the general obligation bonds. That's going to come off as we would have anticipated, and our installment financing had no pre-payment penalty.

If you had asked me to predict for the items that were impacted by LOBs when our obligations, be it collateral or potential private use issues would go away, I would have predicted at when we make the final payment on that debt. The LOBs were issued in 2012, so I would have assumed on December 1, 2028, which would be in FY29 when we were scheduled to make the final payment, that's when our potential private placement issue would go away. I would have been wrong. Bond counsel confirmed that technically when the final payment is made, and since we are refunding, most of that debt will pay off October 21 when we sign the documents. There will be one bond that won't pay off until June 1, 2022, which is later in the current fiscal year, so on June 1, 2022, our potential private placement issue that you likely have heard us speak about that's related to the parking deck at Town Center will have gone away. Technically, the majority of it will have gone away on October 21.

If you issue general obligation debt as we did to build this building, or if you issue it to build roads, you might think that your collateral is what you build – this building or the roads. That's not so. Your collateral when you issue general obligation debt is your taxing authority and so what you've agreed to with bond holders is that you will set the tax rate sufficient to repay that debt. Don't think of the collateral as exactly whatever you are doing with those bond proceeds. If you issue an installment financing, so if we had issued what's effectively a mortgage on this building, then the collateral on this building would be the building. I wasn't here in 2012 when the limited obligation bonds were issued and many of the board members who are serving today were not serving in 2012. Much of the staff has turned over, so I think it's a forgivable sin to not be aware of exactly what was offered as collateral.

Three significant things were offered as collateral – the parking deck, Town Center and current Town Hall. What that means is if we had allowed those LOBs to be outstanding until their final termination in FY29, then there would already be an existing mortgage, a deed of trust, on existing town hall. We've contemplated before when we build the new town hall that we might sell existing town hall. It would be collateral on a different loan and we would not have been able to do that until we cleared up that title. What we are doing with this LOBs issue does two things. First, I'm very proud that it saves us \$980,000 and that estimate is still in effect. It saves us that interest over the remaining life of the loan and in addition it gives us additional flexibility on being able to sell current town hall and do other things should we choose to do them on the parking deck.

Mayor Aneralla said kudos to the staff. I've been contacted three times from the State Treasurer on this because he sees what has happened over the last few years in Huntersville. He reiterated again that we are the best funded community in the state of North Carolina and that doesn't happen by accident, so he contacted me on that and to tell me congratulations on this refinance and then he wanted some publicity. We have a reporter here so maybe she can do that or if Lee Sullivan is watching, because he has I think 25 or 30 communities throughout North Carolina that would die for our balance sheet and he has to look at them very closely.

Ms. Huffman said I like kudos and that's awesome and we've got staff and a board that supports that and I'm real appreciative, but we have to say thank you to bond counsel and our financial advisor, they do a great job.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Mayor Aneralla presented proclamation proclaiming October as National Arts and Humanities Month to Nancy Neely.

Proclamation

WHEREAS, the coronavirus has had a devastating impact on America's arts sector, with 99 percent of cultural organizations having canceled events and artists being among the most severely affected segment of the nation's workforce; yet notwithstanding this fact, the arts have helped collectively lead us throughout the darkest times of the pandemic—lifting our spirits, unifying communities, and jump-starting the economy; and

WHEREAS, the month of October has annually been recognized as National Arts and Humanities Month by thousands of arts and culture organizations – including the Arts & Science Council, the local arts agency of the Town of Huntersville and Mecklenburg County – and by communities and states across the country; and

WHEREAS, the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind and play a unique role in the lives of our families and our community; and

WHEREAS, the arts and humanities help community members explore their diverse history and culture with the support and creativity of large, midsize and small cultural organizations, creative individuals, educational institutions, and local businesses; and

WHEREAS, the collective nonprofit arts industry of the Town of Huntersville, surrounding towns, Mecklenburg County and Charlotte strengthens our economy by generating \$243 million in total economic activity annually, \$21.6 million in state and local government revenue, and by supporting the full-time equivalent of 7,600 jobs.

NOW, THEREFORE, I, John Aneralla, as Mayor of the Town of Huntersville, NC, do hereby proclaim October as National Arts and Humanities Month in Huntersville, North Carolina and call upon our community members to celebrate arts and culture and to join in this special observance.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the Town of Huntersville to be affixed, this the 18th day of October 2021.

April Dunn, Chairman of the Public Art Commission, provided update on what the Public Arts Commission accomplished in 2021. *PowerPoint presentation attached hereto as Exhibit No. 1.*

The Public Art Commission released a Request for Qualifications for artists to submit ideas for the greenway trailhead sculpture. We have \$10,000 that has been donated from a company. We have applied for two additional \$10,000 grants, some of which we will not hear back from until next year, but we are hoping to be able to put at least a \$40,000 sculpture there. We are also looking at the possibility of a Huntersville Sculpt Tour and Art My Park.

Commissioner Bales expressed appreciation for all the work the Public Art Commission has been doing.

BeeJay Caldwell, 14521 New Haven Drive, said I'm here to say thank you very much to the candidates who attended the forum on the 10th. It was a very successful event and it started to open dialogue among the sitting Board members and the people of the Pottstown Preservation Committee for Change. We appreciate the opportunity to come before the Board time and time again with issues and suggestions and we appreciate your listening to them and tucking them in your heart to think about them at a later date when we can meet more formally and have it fleshed out.

Tim McDonald, 14311 Beatties Ford Road, said I've got a noise complaint for the Community School of Davidson. I've called the police on several occasions. It's not only the speakers, it's the band, the yelling. It's happening on Wednesday nights, Friday nights and now they are starting to do stuff on Saturdays. I've called several councilmembers. They called me back. I also had Ms. Phillips come and she has recorded in my driveway the noise. I'm asking the Town, we've got to do something. This is starting to get ridiculous. My wife works from home. She's Safety Coordinator for Atrium Health. She was on an important call. The Vice President asked her to cut the radio down and it was actually the speakers from the school. That's pretty much all I've got.

Chuck Davis, 10 McFarland Road, Pinehurst, North Carolina said I'm here to read a letter from my father and it's in connection with the North Creek Village rezoning.

Members of the Huntersville Board of Commissioners:

One of the matters that is before the Board this evening is the rezoning for the second phase of North Creek Village. My wife, Faye, and I are the current owners of 45 acres, or just over half of the the land that makes up the project. This land has been in our family since the mid-1800's, roughly 25 years before the Town was incorporated.

During my youth and when our own children were young, this was a rural area. We were able to use and enjoy our land in a way that is no longer possible – to hunt, to farm, to live a rural lifestyle. But a lot has changed in Huntersville since that time. Many new people have moved here and new subdivisions have been built to house them. Schools, hospitals and new office and commercial buildings have been built to accommodate them. New roads have been built to handle the traffic. Soon, NC 73 will be widened into a 4-lane highway.

Growth is a sign of healthy and vibrant town and reflects on what a wonderful place Huntersville is to live. Town leadership has thoughtfully planned our area as an activity node in a comprehensive town plan that has the support of the community. We have welcomed the changes around us and have not opposed the many new neighbors and development that has come.

But these changes have affected us as well. We no longer hunt and farm on our property and we are now ready to sell the land we have used for generations. We ask that this Board follow the Town's plans that have been adopted over the years for our land and approve the project before you tonight.

Sincerely,
Charles S. Davis, Jr.

Original Letter attached hereto as Exhibit No. 2.

Tim Mayes, 13919 Old Vermillion Drive, said I want to share with you tonight a perspective relative to the item in front of you, the North Creek Village mixed-use project. That perspective comes from six property owners that own 34 acres of that development. I happen to be one of those, along with my sister and brother and we have three cousins.

Mr. Davis just shared with you a perspective from legacy property owners, and I speak to you tonight with a lot of emotion, a lot of concern about the quality of project that you have in front of you. Let me quickly just say that after 10 years plus of conversations with different developers, different members of the Town staff, a lot of internal conversations within our family, we are extremely pleased with the product that you have in front of you to approve tonight.

The current membership group happens to remember our Uncle Will who owned the 34 acres that we now own, who passed away about 65 years ago. We remember spending time on that property. He was the kind of person that I think we would all respect. He was the kind of person that you would always want to be looking in the eye of and saying yes, sir/no, sir and in this particular case we see what we are doing as a family as something that needs to pass the test of looking at Uncle Will in the eye and saying for this property that's been in our family for 200 years, we want to pass it along in a quality way for this community.

Quite frankly, many in our family and I have been in this position a time or two in recent years. We would kind of like to kick the can on down the road further, because when you are talking about property that's been in the family for this long and when you realize that you should come to the table in a spirit of humility because as a current property owner, you've done nothing to be in the position of being a property owner, but you owe it to those who have gone before you. We realize that there are different perspectives about this from folks who aren't in the community and have not been in the community for years. We respect that as well. We believe your public processes are good processes where you accept input from many and it's your responsibility to hear different perspectives and make a decision based on all those perspectives.

This is our first opportunity to share with you our perspective and we respect your position. We'll honor your decision whatever it might be. But legacy is important to us and doing the right thing for the community in a way that brings honor to our ancestors and that provides a quality of life moving forward is something that we want to do. For those who say things have changed a lot since I've moved to Huntersville, well let me tell you growing up on Mayes Road I remember when we might have 8 or 10 cars pass our property on Mayes Road a day. Thank goodness for the changes we've had. We respect the position and perspective of those who have been here less time than we have been here, but at the same time in our hearts and our souls and our thought processes of the family, we realized that the time is now for us to do something right. There are only six of us and in 7 or 8 years as some of us age out there could be 20 of us and from a business standpoint, it's not right for us to kick that can down the road for those that come behind us. Thank you for what you do. Having spent a little time in the public sector myself, I know it's a thankless job. I know that you have to go through a lot of consideration of everything you do. Being in the chairs you are in, it's never as simple to those of us that stand here as it looks to be. There are a lot of considerations that you have to make, so we respect where you are. We are pleased with Mr. Vinson's work, the developer, and the company that he's chosen. ColeJenest is top quality and so we believe we could look Uncle Will in the eye and say sir, this is the best we can do to pass on your legacy. Thank you for your consideration.

AGENDA CHANGES

Commissioner Boone made a motion to approve the agenda.

Commissioner Munger seconded motion.

Motion carried unanimously.

PUBLIC HEARINGS

Sedimentation and Soil Erosion Control Ordinance Amendments. Mayor Aneralla called to order public hearing on amendments to the Sedimentation and Soil Erosion Control Ordinance to comply with HB489.

Emily Sloop, Town Attorney, said you have in your agenda package proposed edits to the Town's Soil Erosion and Sedimentation Control Ordinance. These are all prompted by legislative changes and necessary to comply with House Bill 489.

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

OTHER BUSINESS

Sedimentation and Soil Erosion Control Ordinance Amendments. Commissioner Boone made a motion to approve the amendment to the Sedimentation and Soil Erosion Ordinance complying with House Bill 489.

Commissioner Bales seconded motion.

Motion carried unanimously.

Amended Sedimentation and Soil Erosion Control Ordinance attached hereto as Exhibit No. 3.

Petition #R21-06. Petition #R21-06, North Creek Village Mixed-Use, is 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, said I just want to go through the changes that have transpired with the plan since the Planning Board's recommendation to you, as well as the Staff Report that went out to you last week.

The property is 84 acres located just south of 73 where Davidson-Concord Road intersects and generally between Black Farms Road and Ramah Church Road.

This sheet here represents the totality of those changes and I'm going to run through them as quickly as possible. One of the primary changes are the items in yellow. Those lots were previously townhome lots. They are now shown as single-family detached. They would be under 60' in width. I believe they're about 50'. This area here in yellow also represents a change from townhomes to detached single-family. You will also note in the bottom part of the screen there are two call-outs showing that

there will be on-street parking as required by the ordinance in this single-family section due to the size of the lots.

There was a comment about circulation in the commercial area and that has been augmented quite significantly, so there are no issues there in terms of the provisions for this plan.

There was a comment about the stub road under both road options. They are listed as A and B, and only one of them showed a stub to the north. That has been corrected, so it's shown under both scenarios, so that would be pursuant to the staff comment.

The buffer on Black Farms Road is shown as 100' and it was not clear if all of that was proposed to be undisturbed. You can see the call-out there that the first 80' would be undisturbed and the last 20' proposed to be disturbed, if needed, and then replanted. It is acceptable to staff.

You can see here that we were looking for elevations for the multi-family. While the image to the top, and I'll let the applicant speak more to that, but more the two main points are in the lower right, you can see a footprint that shows you the access out to the public street, which would be the bottom arrows and that the units on the ground level will have that access which is part of our ordinance and then there are these elements here speaking to the architecture and the design. I won't go through those unless the Board would like to, but staff is very comfortable that they are giving a nice parameter with which the next stage of the project will move.

There were a couple of notes that needed a little strengthening. Note No. 6 talking about permitted uses and where they may go. The area in red there speaks to the density would not be increased along the external boundaries of the project without review by the Director, so that tightened that up a little bit.

The last note was that there was a recommended trail connection from two residential areas, and it was a little bit vague as to whether that was actually going to be offered up, but they have provided the notation that you see there and again going back to the Director. As long as it is an approvable item by whatever governmental authorities are appropriate, that will be part of the plan.

Just giving you a quick update of what these changes mean, you still have 303 proposed apartment buildings. The detached units are 116 at this point. The 65 attached units, or the townhomes, have been eliminated. The square footage of commercial is unchanged, still 42,500 sq. ft. You are looking at a proposed density in the 84 acres of 4.9 units per acre, which is down from the 5.3 that the Planning Board saw.

This is the breakdown of those densities. You can see that the pink area on the west, or what would be the left side of the screen, is dropped to 2.2 and then in the blue triangular on the east or the right, you can see it's down to 1.71 with the townhomes removed.

This is just a history of where the density has gone. If you would like to see that, we can talk through that.

These are the TIA elements that still do not appear on the plan. We need to see those as part of the plan, so that is just something that the applicants can commit to. There were a couple of other transportation comments that are shown in these two slides. They have to do with some very specific set-ups through our Engineering Manual and Practices. If you would like to have any further discussion

about these elements, a representative from the Engineering Department can certainly do that. I believe that the applicants are amenable to these being added to the plan and they can speak to that in just a moment, but we would like to have those stipulated. The way that would work, this is the recommendation from staff, and you can see that all of the first elements have been satisfied with the red notation.

The last two items there are that the TIA/transportation comments would be addressed per the comments from the plan and then all the other redlines that are on the plan that would be minor in nature. We don't essentially have other conditions other than those two items.

The Planning Board on September 28 did review and their recommendation to you was denial of the plan as it's proposed by 7-2 vote and you can see their rationale there, speaking to not protecting and enhancing the character on Black Farms and Ramah Church.

Commissioner Munger said staff comment on EOS-6, Page 11 of our packet, typical road cross-section should not be installed along Black Farms Road to preserve the rural character of the corridor. Can you explain what is meant by this. Does this mean we don't want a road off Black Farms.

Mr. Peete said no, that does not have to do with the connection. This is the residential road that would tie-in to Black Farms Road and that is running in between those two 100' buffers that I referenced a minute ago. What that comment was referring to was there was an anticipated set-up by the applicant that they would do standard road improvements on Black Farms at their frontage, so you would think about widening, if necessary, sidewalks, street trees, those types of things.

Our 2040 Plan calls out about three or four roads that have an historic connotation to them. In respect to that context, the cross-section needs to really be explored very specifically. What we were doing there was basically saying don't put the standard package in this place. Let us, if it were to be approved, study that at the next level. The cross-section that is in the plan today simply mimics what's there and we would take a look at that issue if it is to go to the next level if the Board were to approve.

Commissioner Boone made a motion in considering the proposed rezoning application #R21-06, North Creek Village Mixed-use Conditional District rezoning, the Town Board approves the rezoning with conditions. The rezoning is approved as it is consistent with Policy Recommendations LU-1, LU-2, LU-3.1, LU-5, 6, 7, 8, 9, 10 and 11 and EOS-10 of the 2040 Community Plan. Recommendation of approval is based on the following conditions as outlined in Part 5 of the Staff Report. With those conditions, it is reasonable and in the public interest to rezone 84.0 acres as described in Attachment B of the Staff Report from Rural to North Village Mixed Use Conditional District Rezoning Plan to permit 42,500 sq. ft. of commercial space, 303 apartments and 116 single-family homes, because it is consistent with the 2040 Comprehensive Plan and applicable provisions of the Zoning Ordinance can be adequately addressed with staff recommendations, and conditions listed in the Staff Report, the TIA comments and redlines need to be addressed.

Commissioner Walsh seconded motion.

Commissioner Walsh said I've often said that when the 2040 Plan supports, or in my opinion supports, a project, when Planning Staff supports it, and the Planning Board recommends something, it makes my job a little bit easier. I will tell you as late as Friday I was probably not a hard no, but a no on this particular project, but with the additional changes that were made over the weekend, I will now be in support of it. The Planning Board had a couple of issues. It was a split decision by the Planning Board,

but the LU-11, Protecting Existing Housing Stock, the elimination of the townhomes to the east and west and the feathering out made this a more acceptable project. EOS-6, Preservation of Rural Elements, Black Farms Road that was mentioned, which is identified to preserve scenic beauty, again there's 100' buffer plus no improvements on the outside, kind of shielding the community. The overall reduction in density and the trail connection were pretty important to me. I think it has more of a village setting and I believe it's going to be a great project.

Commissioner Bales said in listening to the Planning Board's concerns, I believe that the petitioner has addressed the majority, if not all of them, as we look to create this node and feather back out into the rural community. I will be supporting this project. I think that it is an excellent project for this Activity Node and I look forward to seeing what happens out there with the area businesses and the families that ultimately move into this space. I would like to remind the Board and remind the next board that this Activity Node is what it is, a node in which we want to make sure that we are continuing to preserve the rural character to the east, as well as to the west of Huntersville, so it's going to be very important for these future boards to acknowledge that and preserve the rural character outside the node.

Commissioner Phillips said I'm the queen of no as time has gone on and I just want to thank the developer for being so amenable to the questions, the requests, the meetings, the time, because I know that we are an interesting cast of characters and I feel like in times we were making your job difficult and you have done a great job addressing our concerns, so I just wanted to thank you for that and yes I will be supporting this.

Mayor Aneralla called for the vote to approve Petition #R21-06.

Motion carried unanimously.

Black Farms Road Farmhouse Cluster. Black Farms Road Farmhouse Cluster is a request by Black Farms Collective LLC to subdivide +/- 12.27 acres of land located on the east side of Black Farms Road to create a six lot Farmhouse Cluster development.

Lauren Speight, Planner II, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 4.* The Black Farms Road Farmhouse Cluster is proposing six single-family lots, which is the maximum number of lots you can get in a farmhouse cluster, off of Black Farms Road. The project size is a little over 12 acres and it is currently zoned Rural.

Just for some context, here's where the proposed project is, then you have an existing Farmhouse Cluster to the east and it's surrounded mostly by single-family residential. There's a farm across the street and then there's some proposed development that's surrounding as well.

The proposed development is preserving the minimum amount of open space that's required for the development, as well as meeting the minimum tree save that's required for the Rural zoning district as well. They have included plans for erosion control as a part of their site plan and they've also included construction documents for the private drive that is required to be built to Town street standards as well.

One of the comments that staff has been working on with the submitting firm is regarding the 60' buffer along Black Farms Road. The firm has worked to resolve that comment to ensure that there is an opaque vegetative buffer along Black Farms Road at the entrance of the development given that there is some existing vegetation there. Staff is going to ensure that when we stamp approval there will be a

comment noting that any vegetation that is removed in the process of construction would have to be supplemented before the completion of the project.

Staff is finding that the site plan meets 10 of the 11 conditions that are outlined in the Huntersville Zoning Ordinance for a Farmhouse Cluster in the Rural zoning district. The significant concern is about the buffer and in light of the recent concerns with regard to Charlotte Water, staff has also been in contact with the submitting firm about that because the Farmhouse Cluster is planning to be on public sewer and water currently, which would have a significant implication for the open space and tree save requirements for the Farmhouse Cluster. Farmhouse Clusters are allowed to have septic systems in common open space, but if the Farmhouse Cluster has to revise that, it may prove that the development is not able to meet the minimum requirements there, so staff has been in conversation with the applicant about that and they are working on their capacity assurance letter. In the meantime, they are currently still planning to go with Charlotte Water for public sewer and water connection. Staff has also worked with the other minor comments that we have on the plan and the submitting firm is also working on their outstanding land development comments, therefore staff does recommend approval of the project pending the outstanding comments are addressed.

Commissioner Bales said just to clarify, if they disturb the 60' buffer, they will go in and replant.

Ms. Speight said yes, they will be required to replace that vegetation so that there is an opaque buffer.

Commissioner Munger said is the applicant available.

Ms. Speight said I do not believe the applicant is here this evening.

Commissioner Munger made a motion to approve a request by Black Farms Collective LLC to subdivide +/- 12.27 acres of land located on the east side of Black Farms Road to create a six lot Farmhouse Cluster Development, with the understanding that the outstanding comments from the Planning Department and Huntersville Land Development being addressed.

Commissioner Bales seconded motion.

Mayor Aneralla called for the vote to approve the Black Farms Road Farmhouse Cluster.

Motion carried unanimously.

Birkdale Village Subdivision Sketch Plan. Mayor Aneralla said this is a quasi-judicial hearing on an application submitted for Birkdale Village Subdivision Sketch Plan and Revision. As a reminder, quasi-judicial hearings are evidentiary in nature. The Board must base quasi-judicial decisions upon competent, relevant, and substantial evidence in the record.

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

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

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

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

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

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

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

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

Who do we have here and please introduce yourselves. Let's go with staff first.

Stephen Trott, Engineering
Brian Richards, Planning Staff

Mayor Aneralla said and the applicant.

Michael Lant, North American Properties
Nick Lombardo, North American Properties

Mayor Aneralla said no one here from the public to speak on this tonight.

No one responded.

Mayor Aneralla swore in Stephen Trott, Brian Richards, Michael Lant, Nick Lombardo.

Mayor Aneralla said the parties in this case are entitled to an impartial board. A Board member may not participate in this hearing if she or he 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 meeting tonight.

There were no disclosures.

Mayor Aneralla said we also.....any ex parte communications. The parties in this case have the rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the

case outside 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 communication to disclose.

Mayor Aneralla said I did attend the public hearing and I attended a meeting once before, I didn't even know it was going to be quasi-judicial, but it's not going to affect my impartiality in conducting this meeting.

Commissioner Bales said I did speak with someone from North American Properties who gave me an idea of what this was going to be, but I did not realize it would be quasi-judicial. I apologize for that. However, it will not affect my judgment at all.

Commissioner Munger said similar, I had a conversation where someone had mentioned there were upcoming changes coming to Birkdale Village. I was unaware of what they were. As it turned out, I found out it was quasi-judicial, so I dropped that, and it will not affect my impartiality.

Commissioner Hines said I did have conversations with North American Properties, but this was regarding Highway 73. This was a long time ago right after they purchased the property and it has no bearing on this or partiality regarding this decision.

Commissioner Boone said I attended a neighborhood meeting, but I believe they went over this program they are going to show us tonight, but it will have no affect on the decision that I make.

Brian Richards, Assistant Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 5.*

As we heard before there was a Neighborhood Meeting back in August of this year describing this project. We are all familiar with Birkdale Village – roughly 55 acres in the Highway Commercial Conditional District under an old R01-03 rezoning plan from a long time ago.

Here's a current aerial of the facility. The proposal tonight affects 1.78 acres currently being used as common open space and parking. The proposed uses are to create four new commercial lots. Revisions to the common open space and the creation of a new urban open space towards the end towards the movie theatre, and also the abandonment of a portion of Lindholm Drive.

You can see here on the image in front of you, the developers are looking to create three jewel box buildings, and also a valet and concierge service area in the western portion of Birkdale Village towards Highway 73. Towards the movie theatre they would be removing the existing fountain and have four small retail buildings that will be used for seasonal products.

There's a revision to the trees out there. Back in the 2001 ordinance they did not have tree canopy or tree counts as we do today. They simply had to save as many trees as possible. Currently in the project area there are 142 trees, 32 of those are to be removed due to construction and site distance triangles. The applicant is proposing to replant 21 trees.

In the open space revision there will be a reduction of 0.8 acres of common open space for the creation of those lots.

Impervious, there will be no new impervious area. There would actually be a slight decrease in impervious area due to the revisions. You can see that here. The existing is on the left and the

proposed is on the right. You can see the revised central portion of Birkdale, which will have a larger open area where the current fountain is. There will be a reduction of 78 parking spaces. That is also because of the widening of the common areas in the middle. They are required 1,082 spaces. Currently they are at 2,118. When this is done there will be 1,940 and the applicant will be providing concierge parking or valet parking for folks.

They do require a block length modification due to the closing of a portion of Lindholm Drive around the center. Currently the block length of Birkdale Commons Parkway in that area is 514.79'. If that roadway is closed and abandoned, that would make the block length 575.54'. They would be required to get a block length modification.

In regards to the 2040 Community Plan, Birkdale Village is located in the Town's Core, but also within Mixed-use Center. The following policies support the revision to the plan.

Staff is recommending approval pending the block length modification and any outstanding planning comments are addressed. As of this afternoon there are no outstanding comments.

On September 28, the Planning Board recommended approval.

Commissioner Hines said the block length waiver, does the access to one of the underground or the parking lots, does that not break-up the block.

Mr. Richards said it does not, not in Highway Commercial. That's only for TND that you can use mid-block crossings.

Commissioner Munger said just a question of clarification, because it's quasi-judicial. Literally the only thing we are looking at tonight is a waiver on the block length.

Mr. Richards said they are asking to increase the lot count from 20 to 24 and the block length, correct.

Commissioner Munger said I did have a comment for the applicant. Reducing parking spaces by 78 is a concern for me. I find it already relatively difficult to park in Birkdale Village. I know that's not something we can consider on this, I just want that comment added because parking in Birkdale Village is painful.

Commissioner Walsh said to follow up on the parking, so if parking is being reduced by 78 spaces, does the formalized valet parking get any of those back or where are they parking.

Mayor Aneralla said do you want to hear from the applicant now.

Commissioner Walsh said whoever can answer the question.

Mr. Lant said the valet service is something we provide to most of our developments and it is, in fact, to make it convenient for folks to come in and get dropped off. The parking spaces that the valet will use will be in the parking deck, so they can double stack and triple stack cars. To answer both questions, yes we lose 78 on the main drive, but that should be taken up by the convenience of the valet.

Mayor Aneralla said any other questions. Is there a motion.

Commissioner Walsh said in considering.....

Mayor Aneralla said wait, I'm sorry.

Commissioner Walsh said you asked.

Mayor Aneralla said I know. Well, you go ahead. You can do the motion.

Commissioner Walsh said in considering the Birkdale Village Subdivision Sketch Plan Revision, we the Town Board find the application is complete. The application is consistent with the 2040 Community Plan and is in keeping with the spirit and intent of the Town's future land use plans and is supported by the following policies: LU-5.1, LU-6.2, LU-8.1 and EV-2.1. The sketch plan complies with all standards but is subject to the following: block length modification of Birkdale Commons Parkway not to exceed 575.54 linear feet is approved and all outstanding redline comments from staff are addressed. I would like to make a motion to approve the Birkdale Village Subdivision Sketch Plan Revision.

Commissioner Phillips seconded motion.

Mayor Aneralla said as a reminder this Board is tasked with deciding if, based on the evidence presented at the hearing before this Board, 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 and we have a second. Any other discussion.

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 other parties with the right to such notice.

Petition #TA21-07. Petition #TA21-07 is a request by Nick Lombardo on behalf of North American properties to amend Article 4: Shopfront Building, Architectural Standards of the Huntersville Zoning Ordinance, to allow shopfront buildings to use decorative metal panels such as Aluminum Composite Material panels as an accent or trim material.

Lauren Speight, Planner II, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 6.*

This is Text Amendment #TA21-07 which came before you for a public hearing on September 7 of this year. Since that time the Planning Board has made a motion to approve this text amendment unanimously for shopfront buildings to be allowed to have decorative metal panels such as ACM with conditions.

Commissioner Walsh said just for clarification, we allow this same standard in other zoning, this is just adding it to this zoning.

Ms. Speight said it's based on the building type and we currently allow it for urban workplace building types and Highway Commercial building types up to 30 percent of the façade that is facing the public street, so there's a limitation and the applicant is proposing the same limitation for shopfront building types.

Commissioner Walsh said in considering the proposed amendment #TA21-07 to amend Article 4: Shopfront Building, Architectural Standards of the Huntersville Zoning Ordinance, to allow shopfront buildings to use decorative metal panels such as aluminum composite material (ACM panels) as an accent or trim material, the Town Board approves the application based on the amendment being consistent with Policies LU-8 and LU-8.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it allows greater flexibility in exterior material types for shopfront buildings and the Zoning Ordinance currently allows metal panels as accent and trim materials for Highway Commercial and Urban Workspace building types.

Commissioner Bales seconded motion.

Commissioner Bales said the only thing that I'm going to say is that by making this change it certainly is going to allow our businesses to have a bit of personality on the fronts of their shops, so I am pleased to be able to support this this evening.

Mayor Aneralla called for the vote to approve Petition #TA21-07.

Motion carried unanimously.

Petition #TA21-13. Petition #TA21-13 is a request by Trinity Capital Advisors to amend the Zoning Ordinance allowing the Board of Commissioners to approve modification of a small stream buffer in the Mountain Island Lake Overlay zone 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. 7.*

What is before you is Petition #TA21-13, Trinity Capital Advisors, a Mountain Island Lake buffer change. The language that is being proposed is the bold underlined print. It will allow impact on a stream that drains less than 50 acres to be impacted if there's a conditional district rezoning to Corporate Business. It's in the Protected Area 2 (PA2) zone. That is what's highlighted in yellow on the map below.

This was run through the State of North Carolina because it is part of the watershed protection regulations required by North Carolina. They have given tentative approval. If it's approved tonight, we will officially send that plan to them so that they can finally decide it. It also has the recommendation from Mecklenburg County Water Quality is recommended approval as well.

Planning Staff recommended approve of this request. The Planning Board recommended approval of this text amendment, as well, 8-1, and I would be happy to answer any questions.

Commissioner Munger made a motion to approve Petition #TA21-13 based on the amendment being consistent with 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 an additional option to impact stream buffers subject to conditional rezoning and mitigation.

Commissioner Hines seconded motion.

Mayor Aneralla called for the vote to approve Petition #TA21-13.

Motion carried unanimously.

Petition #R21-11. Petition #R21-11 is 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. 8.*

This map shows you the location. It's at the northwest corner of Mt. Holly-Huntersville and Hambright Road. It's a little over 20 acres in land. This is a request to have a Corporate Business Conditional District. This will be taking advantage of the text amendment that was just approved.

What you see highlighted in yellow is that portion of the stream buffer that will be affected by this proposed development and they will have to mitigate, so whatever the linear feet of that stream is that's impacted, they will have to make up using one of nine options from the Town of Huntersville ordinance and that mitigation will be approved by the Town Engineering staff, as well as Mecklenburg County.

Staff recommends approval and the Planning Board also recommended approval, which was in your agenda packet.

Commissioner Munger made a motion to approve the proposed rezoning Petition #21-11 based on the amendment being consistent with Article 11.4.7(d) of the Huntersville Zoning Ordinance, LU-1.1, LU-5.1, LU-7.1 and EV-1.2 of the Huntersville 2040 Community Plan. Additionally, the amendment is consistent with Article 11.4.7(3) of the Huntersville Zoning Ordinance in that the property is located within a designated Employment Center, and the proposed rezoning is consistent with the overall character of development within the immediate vicinity. In fact, prior to being rezoned to Special Purpose-CD the property had previously been zoned Corporate Business-CD. It is reasonable and in the public interest to amend the Rezoning Plan because the rezoning is consistent with the envisioned uses and development pattern set forth in the 2040 Community Plan. In addition, the proposed development will expand the Huntersville economic base.

This approval is contingent upon:

1. A text amendment which would allow impact of SWIM buffers within the Mountain Island Lake Protected Area 2 Overlay Zone, with required buffer mitigation being met.

2. Approval of Stormwater Drainage Systems Concept Plan.
3. Receipt of Charlotte Water Willingness to serve letter.
4. All outstanding redline comments are satisfactorily addressed with the staff.

Commissioner Boone seconded motion.

Mayor Aneralla called for the vote to approve Petition #R21-11.

Motion carried unanimously.

Resolution – Phase 2 Downtown Greenway. Michael Jaycocks, Parks & Recreation Director, said in front of you tonight is a construction contract for Phase 2 of the Downtown Greenway with J. D. Goodrum. We received three bids as part of this process and between the lowest bid and the second lowest bidder it was only 1 percent difference in cost, which is a good sign, because the third bid was twice as much as the other two. This greenway would go from Sherwood Drive to Commerce Center Drive. We do have a budget amendment in the Consent Agenda to fund the remainder of this project. Three years ago when we did the cost estimate for this project we didn't have the detailed design. We added the trailhead and additional parking and then our easement through some of the property that we are dealing with got tighter, so we had to add additional raised boardwalk and some retaining wall, so that is the reason for the additional need for additional funds for the project. *Slide attached hereto as Exhibit No. 9.*

Phase 1 goes from Holbrook Park to Commerce Center Drive and then the rest of that redline getting to 77 is part of the Highway 21 road improvements which will be a wide sidewalk along those streets. There will be an at-grade crossing on 21 to get you to the tunnel that the county should be going to bid for the project from the tunnel to Rosedale Park by the end of the year. Our project is an 8-month project meaning that in 8 months you can go from the trailhead to Commerce Center Drive while we wait for the 21 road improvements and all that gets completed. The green is greenway that's already there and then you've got the other connection going north. The county has funds in design for that. If you remember during the retreat, from downtown to Birkdale, about 7 miles, hopefully in the next four or five years you will be able to do that and you are going to use three tunnels. You really only cross one major road, so this is just another piece of that puzzle that we are working on.

Commissioner Walsh said so 8 months from now, give or take, you will be able to go from the trailhead basically to Commerce Center Drive or weave your way through to the park and ride potentially. And then the section that is from we will call the tunnel west to the new Rosedale Nature Park, when do you anticipate that being done.

Mr. Jaycocks said they are thinking 18 months once they start. Maybe 2 years from now you will be able to go from downtown all the way to Cedarfield. They are hoping to go to bid by the end of the year, so 18 months from then.

Commissioner Hines made a motion to approve the resolution approving the construction contract for Phase 2 of the Downtown Greenway.

Commissioner Walsh seconded motion.

Commissioner Bales said when you say Commerce Center Drive, are you meaning to the Post Office or to 21.

Mr. Jaycocks said Commerce Center Drive, so behind the post office. If you take Commerce Center Drive, there's two businesses behind the post office. Right there is where our easement is.

Commissioner Bales said so then my next question is, if it's not coming down to 21 in front of James Funeral Home, is that section part of the tunnel crossing.

Mr. Jaycocks said that's part of the US 21 road improvement project. That road will be punched through to Commerce Center Drive.

Commissioner Bales said so there's three projects – we've got this one to Commerce Center and then the extension down to 21, and then from the park and ride under.

Mayor Aneralla called for the vote.

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 10.

Budget Amendment – Carolina Raptor Center. Commissioner Bales made a motion that we appropriate \$20,000 to the Carolina Raptor Center from our Tourism Fund and that these funds will be transferred from the Historic Latta Plantation funding over and create a new line item for Carolina Raptor Center.

Commissioner Hines seconded motion.

Motion carried unanimously.

CONSENT AGENDA

Approval of Minutes. Commissioner Bales made a motion to approve the minutes of the September 20, 2021 Regular Town Board Meeting. Commissioner Boone seconded motion. Motion carried unanimously.

Resolution – Apply CRTPO Funding. Commissioner Bales made a motion to adopt Resolution to amend the Capital Improvement Program and apply for Charlotte Regional Transportation Planning Organization funding for the NC 115 (Old Statesville Road) McCord Road to NC 73 Project. Commissioner Boone seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 11.

Resolution – Changes to Town's Fee Schedule. Commissioner Bales made a motion to adopt Resolution to approve changes to the Town's fee schedule as required by HB489. Commissioner Boone seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 12.

Budget Amendment – Community Development Programming. Commissioner Bales made a motion to appropriate Community Project fund account of \$14,235 to the Community Project expense account.

These funds were donated to the Town for Community Development Programming. Commissioner Boone seconded motion. Motion carried unanimously.

Budget Amendment – The Park Huntersville Greenway. The Town of Huntersville received a Charlotte Regional Transportation Planning Organization grant for The Park at Huntersville Greenway in January 2021 with a 50 percent match from the Town. Originally, the funds for planning and engineering would not be available from the state until FY2025; however, the Town has been informed that the funds are now available. Staff requests the Board approve a budget amendment appropriating fund balance in the amount of \$140,000 for the planning and engineering phase of the project to advance the project into FY22.

Commissioner Bales made a motion to approve budget amendment appropriating Fund Balance in the amount of \$140,000 for matching Charlotte Regional Transportation Planning Organization grant for The Park Huntersville Greenway. Commissioner Boone seconded motion. Motion carried unanimously.

Budget Amendment – Downtown Greenway Project. Additional funds of \$570,000 are needed for the Downtown Greenway due to changes from the original concept plans. These changes include adding the trailhead/parking area on NC 115 and more boardwalk and retaining walls due to the tighter easement. Construction costs have also increased over the last two to three years since the project was designed.

Commissioner Bales made a motion to approve budget amendment appropriating fund balance in the amount of \$570,000 to the Downtown Greenway Project. Commissioner Boone seconded motion. Motion carried unanimously.

Budget Amendment – Town Center Parking Deck. Commissioner Bales made a motion to approve budget amendment appropriating fund balance in the amount of \$65,000 to the repairs to the Town Center Parking Deck. Commissioner Boone seconded motion. Motion carried unanimously.

Electric Account Write-offs. Town staff and ElectriCities have cooperatively worked at collecting final electric accounts to accurately reflect the amount customers owe the Town. As we did in FY21, staff recommends that annually the Board approve the write-offs of amounts that have proven uncollectible for more than three years. While this will not stop our collection efforts (these amounts will remain with our collection agency and we will continue to seek collection through debt set-off program for accounts over \$50), our financial statements will no longer report the amounts as likely collectible.

Commissioner Bales made a motion to approve electric account write-offs for FY2018. Commissioner Boone seconded motion. Motion carried unanimously.

CLOSING COMMENTS

None

There being no further business, the meeting was adjourned.

Approved this the 1st day of November 2021.