



MINUTES

Regular Planning Board Meeting

April 27, 2021 - 6:30 PM

TOWN HALL (101 Huntersville-Concord Road)

Virtual Meeting Information- Members of the public may view or access the meeting on Facebook Live at <https://www.facebook.com/HuntersvilleNCTownGovernment>. If you would like to speak at the upcoming meeting during public comment, please send your name and email address to Tracy Barron tbarron@huntersville.org by 3:00 pm on the day of the meeting, to be added to the speaker's list. The Town will use your email address to send you an email invitation from Ring Central. This will allow you to call in and/or access the meeting to deliver your comments (the 3-minute time limit still applies). In addition, the Town will receive written comments below by email to Tracy Barron tbarron@huntersville.org until twenty-four (24) hours prior to the meeting.

1. Call to Order/Roll Call

Members Present: Stephen Swanick, Chairman; Jennifer Davis, Vice-Chairman; Frank Gammon, Catherine Graffy, Scott Hensley, Jeff Sny, Derek Partee, Christopher Boyd, and Greg Baber.

2. Approval of Minutes

2.A. Consider approval of the March 23, 2021 Minutes

C. Boyd made a Motion to Approve. D. Partee seconded the motion. The motion passed unanimously (9-0).

3. Public Comments - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*

Beryl Jackson, 10422 Friarsgate Road has been in this community for over 24 years and a former Planning Board member stated that we the public urge against R21-01 using the most important documents which justify what your community and constituents want you to do, not what an outside developer wants. A developer who may leave problems that will have to deal with. The plans have been reviewed and are inconsistent with LU 6.3 which suggests small-scale commercial projects serving neighborhoods. This is not a small-scale at 16,000 square feet. LU 11.1 and 11.2 speaks to protecting existing housing stock by considering building mass and scale in relationship to existing buildings. We would like to see that we are protected from negative impacts of development, we consider this to be spot-zoning and the building to be incongruous with the surrounding buildings regardless of the size of the buffers. Huntersville Zoning Ordinance, Article 11 is written to protect from violation of NCGS 160a-383 on Zoning. Is this rezoning reasonable and in the public interest and is this zoning change in character with the existing district. She stated that she hoped the Board members read the position paper that outlined the research on the Hampton Ridge, Cambridge Grove and the Hamptons neighborhoods have done to study this process. They have surveyed their communities and researched it thoroughly before coming to their conclusions. The speaker's tonight are speaking on behalf of a lot of residents that have participated and provided their input and requested that the speakers tonight speak on their behalf.

Andrea Pernstich, 10316 Glencrest Drive is against R21-01 which she feels is spot-zoning. In their research they found that spot-zoning is when nearby properties are zoned differently, and the applicant property is receiving a favorable zoning because they asked or are being favored. She requested that the zoning be in keeping with the land around it and the proposed zoning will promote an inharmonious land-use pattern. The Huntersville Zoning Ordinance states that the

proposed reclassification of the zoning is inconsistent with the overall character of the existing surrounding subject development properties. There are 872 single-family homes that surround this project. The 2040 Plan on page 63 talks about small-scale neighborhoods serving commercial properties, 16,000 square foot is not small scale, it would be the largest daycare in Huntersville. Neighbors do not see this as serving the local community, they see it as a huge burden.

John Bryan, 16813 Hampton Crossing Drive stated that we can agree that we are getting a lot of rain these days and their neighbors live adjacent to the McDowell Creek where the rainwater goes and is being tested to the max. He stated that we agree that water would typically be absorbed where buildings and parking lots are installed. The staff report states that there will be no negative environmental effects, but he questions the broad claim. He commented that the retentions are a cheap fix that are failing, and people deserve better and living next to one would not be conducive for the existing homeowners.

Richard Kirkman, 16509 Sutter's Run Lane is a 20-year resident and a registered civil engineer who builds roads and bridges in North Carolina. He represents the traffic and safety sub-committee of the neighborhood task force and he is requesting a denial of the rezoning. He has studied the application, traffic impact analysis, and spoken to Stephen Trott, Huntersville Engineering Director, NCDOT staff regarding the issues that the sub-committee has with six areas of the TIA report. #1 reduction of the storage lane for the right turn into the daycare, a minimum of 125-foot which would be a conflict to Hampton Ridge neighborhood entrance to accommodate the proposed driveway which creates safety issues. #2 shared turn lane for daycare and Cambridge Grove neighborhood could result in numerous unsafe issues for those trying to enter and exit the daycare and Cambridge Grove neighborhood. #3 site distance in the package is incorrect given that it is just short of being non-compliant a full survey be done using vertical control. #4 the TIA failed to follow the Town's manual by collecting data at reduced morning and afternoon time frames. Traffic counts began at 7 a.m. and did not include the very busy morning school commute which begins at 6 a.m. #5 the TIA does not consider cut-through traffic backing up on Hampton Ridge Drive that will delay residents trying to leave. #6 the TIA design does not follow the reduced conflict design requirements as currently being championed by NCDOT under their superstreets program. How will the developer address the site distance issue during the driveway permit phase with NCDOT if the site distance does work, are they prepared to spend hundreds of thousands of dollars with regrading and repaving the highway in the area.

Mary Colven, 16509 Rudyard Lane requested that you recommend no to R21-01. Referring back to the 2040 Plan, 63% of the people surveyed by the Town of Huntersville cited traffic congestion as the number one concern. The TIA report is estimating a daily increase of 782 trips in a .2 mile stretch of Sam Furr Road. This study did not include an impact on community streets as well. Over 58 bus routes run in front of that property, per CMS Director of Logistics who was surprised to hear that this would be considered. There are also 3 bus stops located extremely close to the front of that property that are located inside of Cambridge Grove Drive. The transportation policy statements in the 2040 Plan, policy T4 suggest it needs to focus on improved safety for bicyclists, pedestrians, and motorists. Also, policy T4.1 to focus on zero fatalities. It's not just the traffic that the community is worried about but the stop, start, yield, turn of who is going first to get up to 45 mph in this 158-yard stretch of road. She strongly urged each Board member to come navigate this area themselves to test it out and see if the proposed R21-01 fits well, if they can navigate safely, are there any blind spots, does it address the needs of the occupants in the area.

(Due to technical difficulties this public comment was permitted at 7:58 p.m.) Tracie Dawson, 17020 Stinson Avenue, a resident of Cambridge Grove for 14 years. As a resident of Cambridge Grove she commented that their HOA did consider the cut through request and voted no due to the huge influx of cars that it will bring to this very busy street where cars must decelerate and accelerate to 45 mph. She commented that they did buy there with the thought that this would remain residential and adding commercial here will disrupt the existing residential area.

The following written comments were forwarded to the Planning Board members ahead of the meeting:

1. Against Item 4A; R21-01 Huntersville Community Day Care

Hello,

I would like to add this public comment for the planning board to consider.

As a recent home buyer in the Hampton Ridge neighborhood, I am concerned about this development. My concerns are in 2 main areas.

First, with a 250 child facility plus 50 employees, there will be a significant increase in traffic at certain times of day. These are likely the same times that traffic is already high on Sam Furr road, making it very difficult for us to exit onto Sam Furr from Hampton Ridge. The additional traffic will cause backups that will block our intersection, which can already happen at peak times.

Second, I am concerned about the sidewalk. We often walk from our neighborhood to the shopping center nearby. That sidewalk in front of the property in question is vital to our safety and enables our ability to walk to the plaza. In the plans, I know that it says the sidewalk would be moved onto private property, then we need a guarantee that the sidewalk will still be maintained. Also, I want consideration to the size and approach of the busy driveway as we have to walk across it.

Thank you,
David Boody
10316 Friarsgate Rd, Huntersville, NC 28078

2. Against Item 4A; R21-01 Huntersville Community Day Care

Ms. Barron,

We live at 16801 Hampton Crossing Drive. We are Sheila and Tim Starnes and Family. We have raised 4 daughters here at this address and still have one living at home and in college. My home backs up to an extremely large daycare school proposed site. I have lived here since we built this homeowner 1998. I have been active in our schools and community and a voting citizen. I have seen changes in Huntersville and my children remember getting a Barbie poster when the Target was built. With growth we have seen increased traffic but I have also utilized nearby stores. We saw Winn Dixie go and all the growth. Marshalls and Homegoods came a bit close but we survived. Please vote No to rezoning and do allow that large of a daycare and rezoning right at our backyard. I'm concerned about car lights in my breakfast windows and traffic cutting through to get back into the daycare, noise, and possible back yard flooding from runoff and from a detention pond. Ask about the X on the map...We already have lots of water than runs down the slight hill from the Highway 73! This is not a good thing to add traffic and add it right in between Cambridge Grove and Hampton Ridge. We think of safety too for the neighborhoods children and buses! By raising 4 girls I know daycares can be needed. We already have one near, some churches near and the huge Leafspring daycare under construction by 131 Main. Please vote no to rezoning in between these neighborhoods. This is not what growth needs to be about. Thank you and I know you will study this and do the right thing. Vote No.

Thank you!

Sheila and Tim Starnes
16801 Hampton Crossing Drive

3. Against Item 4A; R21-01 Huntersville Community Day Care

I have read the updated information on the request for rezoning to Commercial. I see where they are stating they will give a letter to each family upon registering their children not to use Cambridge or Hampton Ridge neighborhoods for easy access to the Daycare., do we honestly think this is going to stop this from happening. I have enough difficulty just getting out of this neighborhood with the traffic now, this will make an already difficult situation even worse. My yard will back up to the seventy-two parking spacing and the beginning of the detention pond and even with a thirty foot buffer we will be dealing with headlights in the early morning hours and the noise. I am not against a daycare going in but this project is to big to be built between our two neighborhoods .Please consider the negative impact this project will create. Thank you for your time

Donna and Jeffery Thousand
16807 Hampton Crossing Drive.

4. Action Agenda

S. Swanick made a Motion to Amend Agenda and hear Item 4A as Item 4C. J. Sny seconded the motion. The motion passed unanimously (9-0).

4.A. **R21-01: Huntersville Community Daycare - conditional rezoning request to rezone 10205 Sam Furr Road (Tax ID 00531101) from General Residential (GR) to Highway Commercial Conditional District (HC-CD) to develop a Day Care Center.**

B. Priest, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff provided a summary of the request to rezone 5 acres for a 16,000 square foot daycare/preschool facility to accommodate a maximum of 250 children with 50 employees. The pitch of the building was adjusted to accommodate meeting the 30-foot buffer requirements on the west side of the lot, and the applicant has submitted a letter stating that they will direct parents on how to access facility in the enrollment process. Staff can recommend a commercial rezoning of this lot based on the Huntersville 2040 Plan LU6.2 AND LU6.3 with an amendment to the Highway 21/Sam Furr Small Area Plan, a 30-foot undisturbed buffer established along all residential properties, stacking counts for Cambridge Grove Drive and Knoxwood Drive submitted showing the increase in traffic and stacking at these left overs can be accommodated for, a process being put in place by the applicant to discourage cut through traffic from Highway 73, and all minor comments being addressed.

D. Partee asked staff to confirm that under the existing General Residential (GR) zoning that the lot has permitted uses include a cemetery, religious institution, duplexes, essential service facilities, government building up to 5,000 square feet, neighborhood or outdoor recreation, parks, schools or transit shelter which would be allowed regardless of the residential traffic concerns. Staff confirmed that some of these uses are by-right and would not require a rezoning as a permitted use. Other listed uses would be permitted if the applicant met certain conditions and that also would not require a rezoning. As all of these uses are permitted, they would be allowed despite the residential traffic concerns. Additionally, some non-residential uses listed would permit the buffer to be reduced to 10-feet if completely opaque.

S. Swanick asked if the proposed use is the only element of the plan causing a rezoning request versus a by-right development and asked if the applicant has made any concessions in the rezoning process. Staff stated that is correct, daycare is a commercial use that is only permitted in specific zones. All other aspects of the plan would be permitted as planned if the use was allowed in the zoning designation.

C. Boyd asked how the traffic can be managed in the approximately 200-foot turn lane that was already deemed necessary for Cambridge Grove. Staff confirmed that this concern has been expressed and forwarded to Stephen Trott, Engineering Director. The conceptual plan reflects the driveway location and accommodation review completed by NCDOT. The final location, site distance and safety requirements will all go through a final review and be required by NCDOT if and when the applicant applies for a driveway permit during their final site plan review.

J. Davis asked for the status of the purchase of the property and if this plan is not approved if there is a contingency plan since her concern is that a school can have even further reduced buffers and no required contribution toward turn lanes. Also, with the TIA traffic counts only available the day before the meeting, she claims that the TIA were not done correctly and the concerns regarding flooding she is not sure if she has had enough time to review that and make a recommendation. Kyshia Lineberger stated that the property has been purchased and there is no contingency. If the daycare/preschool concept is not approved, then she will approach putting a charter school on this site.

F. Gammon asked about 2040 Plan, LU 7.1 which refers to design principles such as streets and sidewalks to improve connectivity. With that in mind he expressed two concerns, 1. The development being limited to one way in and out with 250 children on site and 2. Streets and sidewalks along highway 73 where there may not be a complete sidewalk all the way across the frontage due to the lane addition which causes the sidewalk to be on private property and not city property. Staff responded that the site plan currently proposes the sidewalk on private property and the Hampton Ridge HOA representative contacted staff and stated that their community voted not to grant the applicant easement for the sidewalk extension so staff would want to identify how to make that work so the sidewalk is connected.

G. Baber asked if there was a way to make a general comparison of how drainage would be handled for residential development versus commercial given the concerns that neighbors have expressed. Staff commented that the requirements are the same for a similar amount of impervious as it relates to the sand filter, retention, detention, catching the water and releasing it slowly.

S. Hensley asked what the zoning history of the site has been that is currently zoned General Residential (GR), how staff defines spot zoning, and if the small area plan does not call for intensification of this parcel. Staff responded that the lot has been zoned General Residential since 1998, the 2040 Plan calls for Commercial with specific caveats and the small area plan specifically illustrates and calls this parcel to be residential. Jacob Glass, Staff Attorney stated that spot zoning is a zoning that singles out or reclassifies a small tract of land to impose greater or less restrictions from the area surrounding it.

C. Graffy asked if the HOA that did not approve of the side connect provided any details on their decision, what consideration has been given to the safety implications of adding a driveway to stacking lane, which is also a deceleration lane, being cut in half by the daycare/preschool driveway, and what the proposed enhancements are to this stretch of Highway 73 in the future. Staff stated that the applicant was going to ask about a cut through onto Cambridge Grove but to their knowledge no vote had been taken, Highway 73 has approximately 10 feet of remaining right-of-way reserved for possible future expansion but there are no known plans to expand Highway 73.

Applicant Kyshia Lineberger, a 20-year childcare/preschool owner commented that Huntersville is a family-friendly, working parent community. This property being sheltered by 3-side by solid family neighborhoods with lots of children and families offers a perfect opportunity to partner in service with area families. The ebb and flow of a daycare/preschool is much calmer and more scattered than any other school. Also, one of the best models is to put it in a neighborhood because it services the area families and households. This is a high-quality center she will maintain oversight of and the proposed development has already worked to address the Towns requests for buffers, parking placement, retention pond placement; and the neighbors requests for clearing out underbrush.

J. Sny asked what day the TIA was performed and asked how the stormwater concerns expressed by the neighbors are addressed. Staff expressed that while they did not know the specific date the TIA report was completed, they do know that it occurred during the pandemic and that Town Staff has applied an appropriate calculation to compensate for the current decreased traffic so that their estimate is consistent with how TIA calculations are being done for all projects at this time. Staff stated that the engineering, construction, completion of the pond, and functioning for the first two years is overseen by Huntersville; following that it is inspected by Mecklenburg County on an annual basis. Issues related to existing infrastructure then Public Works can identify if there are easements or existing infrastructure that should be addressed by themselves or Mecklenburg County depending on what is existing in that area.

S. Swanick asked the applicant's engineer how the stormwater concerns were addressed and how this compares to other developments where issues and concerns have been noted by the neighbors. Jay Henson, Henson Foley commented that the method used for the water drainage from the roof and development would drain like a bowl to the center of the development and then to the stormwater pond. He explained that he met several times with neighbors on-site and requests to shift the pond were made by the applicant and also went above and beyond Town requirements on the stormwater drain proposed to release water on a stronger storm at a much lower rate as well as a sand filter to encourage reabsorption before runoff. There is not a way to compare one project to another since the grading, soil and many other considerations must be factored in. The comparison can be drawn on the many developments the engineers have worked on in Huntersville that are working successfully.

G. Baber made a Motion to Approve, R21-01 Huntersville Community Daycare, the Planning Board recommends approval. The amendment is consistent with policies LU 5.1, LU 6.2 & LU 6.3 of the Huntersville2040 Community Plan. However, the Planning Board's approval is subject to the following recommendations; 1) Highway 73 – Sam Furr small area plan is amended by the Town Board if the rezoning is approved, 2)Application is amended so the 30-foot buffer is established along all residential properties, 3) applicant submit traffic counts for Cambridge Grove Drive and Knoxwood Drive are submitted to planning staff,

4) enrollment letter submitted by the applicant in regards to cut-through traffic is added to the record and required as a condition of the rezoning, 5) continue to work with planning staff and NCDOT on the front entrance driveway and buffer area, 6) work with planning staff on sidewalk connectivity. It is reasonable and in the public interest to amend the zoning ordinance because a daycare can be considered a small-scale neighborhood serving commercial use and the current town core plan permits that. D. Partee seconded the motion.

G. Baber commented that residential off of this parcel could be difficult so this project is good and this being a detriment to neighboring properties is subjective since a daycare can also be considered an amenity. Since the land is not simply going to stay vacant, a resolution to the stormwater will have to be identified regardless of what the project is. The skepticism of the TIA report remains the same for all projects and while the number seems a bit high this use will have scattered traffic patterns with little to no weekend traffic. The cut-through concerns will be the same regardless of the project and we will have to rely on the applicant to follow through on their communication with the parents. From experience, there being only one entrance to the facility seems to be standard with a daycare.

S. Hensley commented that he is not in support of the motion. From a practical standpoint he agrees the location is probably excellent for what the applicant is proposing but that doesn't mean it meets the land use as it fits in with the existing community. He questions whether or not this is spot zoning, and the existing small area plan calls for residential so for staff to support this the small area plan would have to be amended. The history of this site has been General Residential (GR) or R-3 zoning so the surrounding neighbors have invested in their homes based upon that being zoned GR which could have an adverse effect on them. The concerns of traffic are not lost and for these reasons he does not support approval.

D. Partee commented that the current zoning allows the applicant to put in a cemetery, park, duplex and more which will create traffic and pedestrian traffic. Commercial development seems to be a catch 22 and the proposed plan appears to have advantages over other by-right developments that could be implemented on this parcel.

C. Boyd stated that he is not in support. While he agrees that it is an amenity to this neighborhood, he does not think all the details have been flushed out and he would hate to rezone it with the traffic not worked out. He agrees that daycares are needed in Huntersville, but the added traffic impact is not something he can support.

J. Davis agrees with Derek Partee that this is not a matter of residential versus commercial, it is a matter of daycare versus charter school, and she would like to see the adjoining neighborhoods work with the applicant to find some concessions and resolution because she does not think a charter school makes sense for this plot but that is what is being considered. The TIA seems to need more information and that appears to be a consistent statement on projects and so she must trust the Town engineers' opinions as it relates to traffic impact. Additionally, if the applicant agrees to all the buffers the use is almost by-right anyways.

S. Swanick commented that a purely commercial development would be an easier project to identify as adverse to the neighbors. This use does not simply draw that line. This comes down to what is the best deal the Town can get out of this parcel to provide the adjoining neighbors with the best options, the current plan has a huge buffer at the back, possible assistance with stormwater resolution and is essentially by-right except for the age of the client it is servicing being 2- and 3-year-old versus 5 years and older. In practicality voting for this project seems better than potentially shrugging at a future project with worse implications. To the point of if this is spot zoning he commented that in his opinion it is not, the use is basically by-right and the zoning catch all of General Residential may be outdated. He commented on his shared frustration on the traffic issue.

F. Gammon asked if the sidewalk will be significantly removed for the turning lane and asked who would build and maintain it. Staff stated that its safe to assume the sidewalk will be removed, the applicant will construct it and the Town will maintain it. He then stated that he cannot support it because it appears that the sidewalk will not be there when this is done and while minor, connectivity is important. Also, a more primary issue is failure to comply with Article 11, Section 11.4.7 (e) in the Zoning Ordinance, that this development does not fit the residential character of the surrounding area. This is not a school; it is a daycare and something else may go in

there, but he cannot support it because of what may happen.

J. Sny stated that he would not be supporting the request because a homeowner adjoining this property would have accepted the potential for development under the current zoning and to rezone it would have an adverse effect to the adjoining neighbors home values and that should not be forced on them.

G. Baber followed up with the statement that a rezoning was just approved for a project where the adjoining neighbors purchased their properties with one expectation and the Board recommended rezoning the property, so it does not seem unusual but rather the norm that when appropriate the parcel could be rezoned. Additionally, the property abuts Highway 73 which is being categorized as a super street so the concept of not developing residential on this type of road or highway is reasonable. The traffic concerns are always going to be a concern because it is traffic.

J. Sny replied that he does not agree with the comparison to the North State Development project because there were a multitude of reasons this rezoning worked including the adjoining zoning. Additionally, the owner of the parcel at the corner of Hampton Ridge & Highway 73 that adjoins this parcel has already taken into consideration in their purchase price their existing surroundings but approving a rezoning has been neither accounted for nor will increase their value unlike some of the other rezoning requests that have been approved.

S. Swanick commented that the arguments made against it have been strong, but he is certain of his vote because if this is voted down and a project comes back that is worse than this and there is a multi-building, multi-campus charter school that magnifies all of the problems that have been identified. The potential future development of this project is not ambiguous, the property is owned, and the applicant has clearly stated how they will develop this property under by-right zoning.

J. Davis commented that she has also gone back and forth on how to proceed with this project. She agrees that it is the right decision to support this. She then asked if the motion needed to be amended to include staff comments.

G. Baber made an Amended Motion to Approve, R21-01 Huntersville Community Daycare, the Planning Board recommends approval. The amendment is consistent with policies LU 5.1, LU 6.2 & LU 6.3 of the Huntersville2040 Community Plan. However, the Planning Board's approval is subject to the following recommendations; 1) Highway 73 – Sam Furr small area plan is amended by the Town Board if the rezoning is approved, 2) Application is amended so the 30-foot buffer is established along all residential properties, 3) applicant submit traffic counts for Cambridge Grove Drive and Knoxwood Drive are submitted to planning staff, 4) enrollment letter submitted by the applicant in regards to cut-through traffic is added to the record and required as a condition of the rezoning, 5) continue to work with planning staff and NCDOT on the front entrance driveway and buffer area, 6) work with planning staff on sidewalk connectivity. It is reasonable and in the public interest to amend the zoning ordinance because a daycare can be considered a small-scale neighborhood serving commercial use and the current town core plan permits that; and that all staff comments be updated on the final plan. D. Partee seconded the motion.

C. Boyd asked for clarification that if they approve this there will not be a continuous sidewalk along Highway 73. Staff commented that the intent is to make the sidewalk continuous which they see will be a challenge, but they will have to review the options available which has not been completed at this time.

C. Graffy stated that she has strong issues with the uncertainty regarding the sidewalk, the TIA information which is still outstanding and has not been evaluated and she does not agree with approving this only because it could be something worse. The decision today is relative to approving this project and she understands there are other potentially negative factors with by-right uses but the role of the Board is to review the project submitted. She is a proponent of daycare/preschools but this project at this location she cannot support.

The motion was denied (4-5) with C. Graffy, J. Sny, F. Gammon, C. Boyd and S. Hensley opposed.

S. Hensley stated that he is ready to make a motion to deny and if that does not pass then he suggested that the

Board and applicant consider if a deferral would be preferred to allow time for more information to be provided.

S. Hensley made a Motion to Deny R21-01, Huntersville Community Daycare, the Planning Board recommends denial based on the amendment being inconsistent with the Huntersville 2040 Community Plan, specifically policy LU 11.1 intended to protect and enhance the unique character of Huntersville neighborhoods, policy LU 11.2. It is not supported by the Highway 21- Sam Furr small area plan and per staff's comments, in order to support the rezoning request would require the Town Board to amend the small area plan. It is not reasonable and in the public's interests to amend the zoning ordinance because this action could potentially be considered spot zoning, has the potential to adversely affect neighboring property values and create additional traffic safety concerns along Highway 73. F. Gammon seconded the motion.

S. Hensley stated the Board's comments have really hit home and he feels that this is not the right plan for this parcel at this time.

F. Gammon stated that he thinks two policies should be added to the motion. LU 5.3, a major policy that the staff spoke to in the staff report and the second is policy LU 7.1 because of the sidewalk connectivity issue and lastly, include that it is inconsistent with Huntersville Zoning Ordinance Article 11, Section 11.4.7 (e) in that that proposed Highway Commercial rezoning would be inconsistent with overall character with the existing residential developments in the immediate vicinity of the subject property.

S. Swanick asked the applicant if she would like to defer the item. Kyshia Lineberger, applicant, stated that she is disappointed after all of the work that has gone into this project to exceed the Town's requirements and address the neighbors' concerns that this is still the outcome and she thinks the project just needs to keep moving forward versus deferring.

S. Hensley made an Amended Motion to Deny R21-01, Huntersville Community Daycare, the Planning Board recommends denial based on the amendment being inconsistent with the Huntersville 2040 Community Plan, specifically policy LU 11.1 intended to protect and enhance the unique character of Huntersville neighborhoods, policy LU 11.2, policy LU 5.3 and policy LU 7.1. The petition is inconsistent with the Huntersville Zoning Ordinance Article 11, Section 11.4.7 (e) in that that proposed Highway Commercial rezoning would be inconsistent with overall character with the existing residential developments in the immediate vicinity of the subject property. It is not supported by the Highway 21- Sam Furr small area plan and per staff's comments, in order to support the rezoning request would require the Town Board to amend the small area plan. It is not reasonable and in the public's interests to amend the zoning ordinance because this action could potentially be considered spot zoning, has the potential to adversely affect neighboring property values and create additional traffic safety concerns along Highway 73. F. Gammon seconded the motion.

The motion passed (5-4) with S. Swanick, J. Davis, G. Baber & D. Partee opposed.

4.B. **TA21-04: Tree Mitigation Administrative Process - text amendment request made by the Huntersville Town Board to amend Article 7.4.2 F of the Huntersville Zoning Ordinance to create an administrative staff review for tree mitigation plans.**

B. Priest, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff explained that this amendment is at the request of Town Board and is not relative to the mitigation requirements only to adjust that the review of mitigation and the objective requirements be completed by Staff versus the Planning Board.

C. Graffy asked for clarification on the wording of 'may' versus 'shall' in the ordinance. Staff explained that the ordinances leading to this footnote which is what is proposed for amendment indicates that the applicant shall save the trees or mitigate. This footnote then indicates the multiple options for mitigation that the applicant may select from.

F. Gammon made a Motion to Approve Text Amendment 21-04 to amend Article 7.4.2.F to make tree save mitigation an administrative process. The Planning Board recommends approval based upon the amendment

being consistent with policies EOS4.2 and EV1.4 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it allows staff to effectively and efficiently review and enforce tree save standards without delaying review processes for businesses and developers. However, with the removal of tree mitigation from the Planning Board, direct public involvement is also removed. To maintain public visibility, the Planning Board requests that the administrative tree mitigation process and results be hosted and maintained on the Planning Departments website in such a manner that the information may be easily located by the public for review. J. Davis seconded the motion.

C. Graffy asked why public visibility is needed for this administrative decision versus the many other administrative decisions that are made other than that it has been public up until now. F. Gammon responded that it is simply because it has always been a public process and there are people in the community with great interest so he believes it should remain easily visible to the public.

J. Sny expressed concern about the accuracy and clarity of the wording of the ordinance and recommended staff revisit this. S. Hensley agreed and suggested that Town legal review the wording as well to ensure that there are no loopholes. C. Graffy agreed that a review of the article that this footnote is taken from may be beneficial to clear up the concerns. Staff restated that the proposed amendment does not change any of the mitigation structure requiring tree save which has been successfully enforced as it is written without issue. The proposed amendment will only adjust that the review of the mitigation is conducted administratively versus by the Planning Board.

The motion passed unanimously (9-0).

4.C. **R21-05 Symphony Park Sales Center - a request to amend R08-12; approximately +/- 0.559 acres at the Southeast corner of Statesville Rd and Rich Hatchett Rd from Neighborhood Center Conditional District (NC-CD) to Neighborhood Center Conditional District (NC-CD) for the purpose of revising building elevations.**

B. Richards, Assistant Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff explained this request is to change only the structure as the approved plan does not have a staff note allowing an administrative change to the aesthetics of the building. The proposed elevations are in keeping with what is in the area.

S. Swanick confirmed that this is a purely cosmetic change to the building. Staff confirmed that is correct.

S. Hensley made a Motion to Approve R21-05 Symphony Park Sales Center. The Planning Board recommends approval based on the plan being consistent with policies LU 6.2 and EV 2.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public's interest to rezone the subject property from Neighborhood Center – Conditional District to Neighborhood Center – Conditional District. The rezoning is consistent with existing development patterns in the area, and the proposed building elevations are in keeping with the neighborhood development. J. Sny seconded the motion.

The motion passed unanimously (9-0).

5. **Other Business**

6. **Adjourn**

S. Hensley made a Motion to Approve. D. Partee seconded the motion. The motion passed unanimously (9-0).

Planning Board | Written Public Comments | April 27, 2021

1. Against Item 4A; R21-01 Huntersville Community Day Care

Hello,

I would like to add this public comment for the planning board to consider.

As a recent home buyer in the Hampton Ridge neighborhood, I am concerned about this development. My concerns are in 2 main areas.

First, with a 250 child facility plus 50 employees, there will be a significant increase in traffic at certain times of day. These are likely the same times that traffic is already high on Sam Furr road, making it very difficult for us to exit onto Sam Furr from Hampton Ridge. The additional traffic will cause backups that will block our intersection, which can already happen at peak times.

Second, I am concerned about the sidewalk. We often walk from our neighborhood to the shopping center nearby. That sidewalk in front of the property in question is vital to our safety and enables our ability to walk to the plaza. In the plans, I know that it says the sidewalk would be moved onto private property, then we need a guarantee that the sidewalk will still be maintained. Also, I want consideration to the size and approach of the busy driveway as we have to walk across it.

Thank you,

David Boody

10316 Friarsgate Rd, Huntersville, NC 28078

2. Against Item 4A; R21-01 Huntersville Community Day Care

Ms. Barron,

We live at 16801 Hampton Crossing Drive. We are Sheila and Tim Starnes and Family. We have raised 4 daughters here at this address and still have one living at home and in college. My home backs up to an extremely large daycare school proposed site. I have lived here since we built this homeowner 1998. I have been active in our schools and community and a voting citizen. I have seen changes in Huntersville and my children remember getting a Barbie poster when the Target was built. With growth we have seen increased traffic but I have also utilized nearby stores. We saw Winn Dixie go and all the growth. Marshalls and Homegoods came a bit close but we survived. Please vote No to rezoning and do allow that large of a daycare and rezoning right at our backyard. I'm concerned about car lights in my breakfast windows and traffic cutting through to get back into the daycare, noise, and possible back yard flooding from runoff and from a detention pond. Ask about the X on the map...We already have lots of water than runs down the slight hill from the Highway 73! This is not a good thing to add traffic and add it right in between Cambridge Grove and Hampton Ridge. We think of safety too for the neighborhoods children and buses! By raising 4 girls I know daycares can be needed. We already have one near, some churches near and the huge Leafspring daycare under construction by 131 Main. Please vote no to rezoning in between these neighborhoods. This is not what growth needs to be about. Thank you and I know you will study this and do the right thing. Vote No.

Thank you!

Sheila and Tim Starnes

16801 Hampton Crossing Drive

3. Against Item 4A; R21-01 Huntersville Community Day Care

I have read the updated information on the request for rezoning to Commercial. I see where they are stating they will give a letter to each family upon registering their children not to use Cambridge or Hampton Ridge neighborhoods for easy access to the Daycare., do we honestly think this is going to stop this from happening. I have enough difficulty just getting out of this neighborhood with the traffic now, this will make an already difficult situation even worse. My yard will back up to the seventy two parking spacing and the beginning of the detention pond and even with a thirty foot buffer we will be dealing with headlights in the early morning hours and the noise. I am not against a daycare going in but this project is too big to be built between our two neighborhoods. Please consider the negative impact this project will create. Thank you for your time

Donna and Jeffery Thousand
16807 Hampton Crossing Drive.