



MINUTES OF THE MEETING
Regular Planning Board Meeting
July 27, 2021 - 6:30 PM

1. Call to Order/Roll Call

Members Present: S. Swanick, J. Davis, C. Graffy, F. Gammon, C. Boyd, G. Baber, S. Hensley, J. Sny and D. Partee

2. Approval of Minutes

2.A. Consider approval of the June 22, 2021 regular meeting minutes

J. Davis made a Motion to Approve the June 22, 2021, Minutes. 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*

Bob Sellie, 9808 Hagers Road – yield time to Laurie Cameron

Emily Outing, 10216 Hagers Road – requested explanation of the entrance to the new development as it appears her driveway will be impacted and that there may be right-of-way abandoned and deeded to someone on the street, but nothing has been clarified as to how her property will be affected. Additionally, the storm drainage on her side of the street clogs when there is heavy rain and there has been no discussion as to how this will be resolved and not further impacted by the new development. Lastly, the residents of Hagers Road selected (to live there) because of the atmosphere of the road, the homes and the acreage and they would like the new neighbors to be considerate of that and that they also have acreage and lots as they have.

Joe Paccione, 9825 Hagers Road – Hagers Road and the adjacent land are part of Clark Creek watershed. When they get heavy rain the water on the west side of Hagers Road to the east side of Karl Knox Road runs south to southwest and runs down across Ulsten and those two roads to the pond. He does not think that what is planned has properly addressed the water movement. Given what we see in the world with climate change he feels this is a real concern. The wildlife is already being driven out by the construction on McCord Road and there are birds of prey on the property that must be protected.

Kendra Brotze, 9928 Hagers Road – besides the issue of the traffic at Hagers Road and McCord Road currently, she would hope the Town will come out and see what impact is being proposed on the existing residents' daily lives. She cannot get a definite date on the traffic study but if it was done in the past 1.5 years then the numbers do not accurately reflect typical traffic due to COVID, virtual learning and school being out for summer. She stated that she believes this development is going to have a far-reaching impact on McCord Road and therefore she requests a moratorium for any development with entrance or exit to McCord Road.

David McNaught, 10039 Hagers Road – yield to Tami Styer.

Debbie McNaught, 10039 Hagers Road – yield minutes to Laurie Cameron

Laurie Cameron, 10016 Hagers Road as well as 3 additional parcels – very invested in this area and she wanted a quiet secluded Lane. Hagers Road was never designated as a future stub or cut through as it originated as a farmhouse driveway. Due to the lack of road width or an adequate road bib the road was never intended to handle more than 23-25 residents. Keeping Hagers Road a dead-end will prevent cut-through traffic on their very narrow 16-foot-wide road, and it will not unduly impact others as there are other exits that are a similar distance and likely a better road. While she would love to see their area stay wooded and remote, as you can see in the petition signed by all the residents of Hagers Road, they know it is not fair for people to be unable to sell their land and growth is inevitable.

With the concessions M/I has made to the residents of Hagers Road they are accepting of the development and that this is as good as it is going to get. However, they want to protect Hagers Road and they are concerned about the intersection, entrance and exit onto McCord Road. While she understands why connectivity is important for the town, the new neighborhood will still have two entrance/exits even if it is closed off to Hagers Road. If the fire marshal feels something is needed, she would point to the Woodland Ridge retirement home in Davidson, NC where there is a fence gate that can be opened by the tone of the emergency vehicle sirens. There are also Knox Boxes, and the fence is designed to breakaway if an emergency vehicle had to drive through the gate. She would like to review emergency access ideas if Hagers Road remaining a dead-end street is not an option. At the very minimum, signage if needed, that states: Dead End Street, or No Through Traffic, or Official Vehicles Only, or Emergency Access Only. The solution is not road improvements as the residents chose the street because they wanted to live on a quiet little lane. Lastly, M/I Homes stated that they were willing to add traffic calming speed bumps, so at a minimum she hopes the Town will require that.

Repeatedly the residents have been told that Hagers Road was not looked at in the TIA report, so if it was not part of the study as it is not part of the subdivision. If they have not been looked at, why will they be included in the loop that is the subdivision? They would prefer not to be part of the subdivision. She understands that something will be developed here, and she thanked M/I Homes for listening to them and trying to work with them, the Staff, Planning Board and Town Board for working to balance the needs of a growing community and she hopes that some respect can be given to the 23 homes on Hagers Road. In trying to look at some good that can come out of this, in 25 years they are still on septic tanks, so possibly with the new nearby development the residents of Hagers Road will be able to get sewer if they choose. Maybe they can get some fiber communications as well. Maybe the Town officials can advocate on their behalf to have the positives that can come from new development be available to the existing residents as well.

Larry Shaheen, McIntosh Law Firm, 209 Delbert Street, Suite 203, Davidson NC. Representing Soil Supply Inc, a neighbor to this proposed development. They were pleased to be contacted by M/I Homes and thanked them for reaching out. Given previous concerns from new residents, Soil Supply would like to request the following conditions to be added to the rezoning, a 60-foot buffer with a berm along any areas of the road adjoining Soil Supply. A waiver signed within each sales packet notifying the buyer of the existence of Soil Supply. A 6-foot fence is requested and the southern most homes absolutely need to be screened due to adjoining land where equipment is heavily used. Additionally, that the NC Courts have determined that legally there is an easement for Soil Supply use and that their trucks will have clear access to enter and exit. It is the hope of Soil Supply that the Town will protect their corporate citizen and see to it that these conditions are added before the plan is approved

Tami Styer – 10225 Hagers Road similar concerns as Laurie Cameron stated related to the eastern connection of Hagers Road to the proposed neighborhood. She also expressed concerns regarding the TIA report and the impact to Hagers Road if a connection is made to the east end of the road. The TIA grossly underestimates the future traffic counts when projecting traffic impacts based on traffic counts being done in the morning and afternoon peaks in April but is not accurate due to COVID and daily commercial traffic of Soil Supply. The TIA report also does not reference the Northbrook development traffic which is currently under construction. There is also a 2.5% growth rate due to being in the Town Core, yet the 2040 Plan predicts a 74% growth in 2020, so the growth rate needs to be adjusted. The staff report refers to Land Use Policy 5 and the dedication of the right-of-way, the TIA should consider this increased traffic as that will be a huge impact to that intersection. She was unable to find information regarding this intersection on the Town's website so additional information would be

appreciated. The request to install a traffic circle at McCord and Hagers was denied by M/I Homes. The TIA should be adjusted to reflect accurate traffic counts for the entire day, accurate growth rate, additional developments currently under construction and the additional thoroughfare connecting McCord to Ramah Church and a traffic circle should be considered as a potential solution.

The additional right turns from McCord Road onto Hagers Road will likely make it more difficult to turn left onto McCord Road from Hagers if a traffic circle is not provided. If a traffic circle is not possible then a 3-way stop should be considered as a minimum so that residents on Hagers Road will be able to make a left onto McCord Road.

Lastly, she encouraged the Planning Board to review the site plan that includes the accommodations made by M/I Homes to the residents which are not included on site plan currently on the website. Things like deeding property to residents on Hagers Road, agreeing to additional buffers and setbacks along with limits of disturbance and a reduction of the number of houses along the property lines, those are all things that are considered in the accommodations made by M/I Homes.

The option of sewer to Hagers Road residents without requiring Hagers Road to be connected to Spring Grove, or to be improved, would be appreciated.

William Haigler, 11920 McCord owns two adjacent parcels on McCord Road, asked if there was a change to the site plan related to the adjustment of the right-of-way where he was told he would capture additional land with the realignment of the road. Also, if sidewalks are installed, how will the lot on McCord be affected as it relates to being a buildable lot.

Myra Billings, 14647 Eastfield Road spoke in favor of the proposed (Billings) development. She is the landowner, and her family has worked with the Scott Moore and the development group successfully over the years and when she and her husband were ready to retire, they wanted to work with the same group.

4. Action Agenda

- 4.A. TA 21-05 a text amendment request by Metrolina Greenhouses, Inc. to allow dormitories with a special use permit in the Rural and Transitional zoning districts subject to specific criteria.

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff provided a summary of the text amendment that is being proposed with the comments that have been added from the Public Hearing. The amendments include: allowing dormitory use for a bona fide farm within the rural and transitional residential zoning with a special use permit; Article 9.62 permits a dormitory and Article 12 includes the definition.

C. Boyd asked how substantial reduction of value of nearby property would be determined. Staff responded that a Special Use Permit is a quasijudicial process and all adjoining property owners would be notified of the request. They can present a certified appraisal subject to this facility being installed for the Town Board to review and decide upon.

J. Davis asked if the building will be identical whether it is built in the Rural or Transitional Residential zoning, we are simply saying it can be placed in either zone; or who maintains the building once it is constructed. Staff confirmed that is correct, one building standard, two zones requested. The applicant, A. VanWingerden, 16701 Huntersville-Concord Road stated that the Department of Labor will review the buildings to confirm they meet the standards a minimum of 30 days before anyone moves in and then has the right to check the buildings as any time unannounced to confirm that we are up to standard.

A. VanWingerden commented that the reason this is needed is because they cannot get local labor. Primarily this is needed for the seasonal help that is a big deal. There are 500 full-time employees and

200 salary employees that work at Metrolina Greenhouse. As employees retire or move, they seek to replace them with local workers. The seasonal workers must be paid \$13/hour. Any American who elects to live under the same condition for the same pay must also be allowed to work and live here as well. In 2020 Metrolina utilized 150 H2A workers and in 2021, 300 H2A workers were utilized. The proposed residence will be 1 mile from the worksite so they will transport via 50 passenger buses. That is their main mode of transportation. The work schedule is 6 – 6.5 days per week and the time they are off is used to go to the grocery store to pick up whatever they need.

S. Swanick asked how many buildings the applicant intends to build. The applicant responded they need 3 – 4 structures. Each structure will house 100 H2A workers for a maximum of 10 months, per Federal guidelines.

S. Hensley asked staff how many properties were identified that would be eligible under the proposed criteria, if the language proposed was strong enough to require that the residents be living on the land they farm, if the language in the text amendment should tie this provision specifically to H2A Federal requirements, and if there should be a limitation to the maximum square footage. Staff responded that six farms were identified as having the land requirements but none of those properties have the staffing needs of Metrolina under their current use. The language related to restricting any applicants to be workers at the farm where they reside was provided by the Town Attorney and the applicant is comfortable with it. Staff stated that Zoning Ordinance should only govern the building type and placement. Staff stated that the applicant had agreed to a maximum height. The applicant stated that there is a minimum square footage requirement per person that is required by the Federal H2A program. S. Hensley responded that his concern was that his concern is if anyone seeks to alter the buildings to make them far larger than expected.

J. Sny asked if another future applicant that meets the Special Use Permit criteria could potentially add as many dormitories as they wanted, and if any of the additional properties identified as qualifying were under Rural or Transitional Residential Zoning. Staff responded that is correct, if all the residents were there to farm the land that the dormitories were on. Most of the properties were Rural, some were Transitional Residential and its quite possible some of those will turn into subdivisions soon.

J. Davis asked for clarification that another person can build a dormitory and 20 years down the road if this H2A program stops, they can still people working and living in these dormitories without government control and people coming in and checking on them whenever they choose concerns her and she thinks that tying this Ordinance to the H2A program may be important. Staff responded that a criterion could be added to the effect of the building being constructed and maintained in accordance with all the applicable regulations which would defer to the H2A Federal standards, and if not in that program it would fall under State building code standards.

J. Davis made a Motion to Approve TA21-05, the amendment of Articles 3.2.1, 3.2.2, 9 & 12 of the Zoning Ordinance to allow dormitories for a bona fide farm with special use permit as written in the staff report. This amendment to the Zoning Ordinance is consistent with the 2040 Plan and is reasonable and in the public's interest to amend the Ordinance because it encourages diversity of housing and encourages existing economic assets and entrepreneurial business development. C. Graffy seconded the motion.

J. Davis stated that she would still like to add or have a discussion related to tying this to a specific program. She is supportive of the motion as a solution for a business owner in Huntersville, but she would like to know that the people working/living there are also protected.

C. Graffy expressed that she understood the concern, but government programs change and additionally, if an apartment complex wanted a certain number of units for under-served or low-income families that may qualify under certain programs, would language tying those to a specific program be required.

C. Boyd asked if a maximum square footage and total number of buildings could be added to the motion so the needs can be met without becoming unattractive. Staff commented that those standards can be set.

The applicant commented that a maximum of 5 or 6 buildings would be acceptable for them and reminded the Board that the buffers are set such that the buildings will intentionally not be able to be seen from the road so there is no change to what the neighborhood can see.

J. Davis asked the applicant if there was a maximum square footage that still met their needs. The applicant responded that they would be agreeable to 15,000 square feet or less.

S. Hensley stated that he wanted to ensure in the language that the residents were working full-time on the farm and not simply one hour of the day and then leaving to work somewhere else. The applicant commented that H2A requires full-time work of jobs that are listed on the petition to the Federal government.

G. Baber asked for confirmation that the motion included being tied to the government program and standards. S. Hensley confirmed he would be proposing an amendment including that.

J. Sny asked if the H2A program ends what guidance the existing structure would fall under and if the current motion was for Rural and Transitional Residential zoning. J. Davis stated that the motion currently covers both zoning districts, but she would be amenable to amending that to be limited to the Transitional Residential zone. Staff commented that through the months this has been before the Ordinance Advisory Board it was expressed that it may be better suited for Rural zoning. The applicant commented that they would prefer to put this in the Transitional Residential zoning simply because sewer and water are available at this location and the area on Rural zoning can be connected to sewer, but water is very challenging and very slow, which creates a tremendous burden.

J. Sny asked if the setbacks and placement of the building would also protect the neighbors. The applicant responded that they will be set back 100 feet from the neighbors and there are dense existing vegetation/trees.

F. Gammon asked how the proposed residents receive medical care and how they are screened for COVID. The applicant responded that a health screening is completed before they are allowed to enter the country.

S. Swanick summarized that the concerns are related to whether this should be restricted to H2A visitors, if this should be permitted in Rural and Transitional Residential zoning, limiting the size and quantity of buildings, and identifying the enforcement mechanism for Federal, State, and local government of the Special Use Permit.

S. Hensley made an amended motion to revise Section 3, number 7 to read: "The dormitory is located on a bona fide farm of at least 100 contiguous acres, it is on land being farmed by the occupants on a full-time basis. Number 8 revised to: "The dormitory cannot exceed two-stories in height, exceed 15,000 square feet per dormitory or exceed 5 total buildings. Number 9 revised to: "Building and housing will be constructed to maintain H2A program requirements, or similar Federal programs applicable at the time." J. Davis accepted the amendments. C. Graffy accepted the amendments.

G. Baber asked if there was a required minimum square footage per resident. The applicant confirmed that the Federal government requires a minimum of 100 square feet per person and their intention is to have buildings that are approximately 11,000 square feet in size for 100 people.

J. Sny asked if the statement of full-time requirement needs to be defined. Staff responded that they would accomplish that with the Town Attorney and the applicant. The applicant stated that the Federal government states 30-hours a week is full-time and if the workers do not receive more than that they will not return, the workers more often work 50 to 70-hours per week.

The motion passed unanimously (9-0).

- 4.B. Consider Recommendation on Petition #R21-04, Spring Grove, a request by M/I Homes of Charlotte, LLC to rezone +/- 62.82-acres south of McCord Road and Hagers Road intersection to from General Residential and Neighborhood Residential - Conditional District to Neighborhood Residential - Conditional District for a 138-lot subdivision; (PINs 01101102, 01101110, 01101114, 01119129 & 01119132). (*David Peete*)

D. Peete, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff provided a summary of the location and current zoning of the properties in the conditional rezoning. For density, the parcel zoned NR is vested under the approval as Hawks Landing, along with the parcel zoned GR for a combined density which the applicant has stayed under at what is currently 130 single-family homes total.

Staff reviewed the proposed throughfare and greenway that the applicant has dedicated right-of-way to accommodate. Staff indicated that these are not currently on the website since they are not under active planning and only proposed for future development.

The proposed development falls within the 2040 Plan Town Core area and is in keeping with the Town Core criteria. The Town TIA was resubmitted on July 23rd and has not been finalized. The Town TIA currently recommends, NC115 right turn at McCord traffic light and a right turn lane off McCord to Hagers Road. NCDOT TIA results are still forthcoming.

The proposed impact of development on CMS schools recommended that adequacy of existing schools is a significant problem which have already exceeded 100% capacity.

Staff recommends that the TIA review be completed, on-street parking being resolved, all redline comments addressed and is recommending that due to the proximity of Soil Supply along the western boundary, a planted berm within the buffer along the future thoroughfare would help screen noise, odor, and dust.

S. Swanick asked what size and type of buffer is being recommended by staff, and if there was any precedent to prevent the eastern stub from the proposed subdivision to Hagers Road. Staff stated that given this is a conditional rezoning and the nature of the adjoining property business, staff has made a recommendation of a planted berm in concert with other options that the applicant may be able to propose their willingness to install. Staff responded that the ordinance does not require a minimum number of stubs, staff identifies where adjoining parcels are ripe for redevelopment and recommends stubs to prepare for potential future development and to tie together our network. The fire marshal has commented that the creek crossing is a choke point, and the developer will be limited to a certain number of lots beyond the creek if they do not have a second entrance.

Storm water design and inspection concerns were addressed. Staff stated that the storm water plans must address all issues before they will be approved and they are inspected by the Town and then after two years of completion, the county takes over continued inspections.

J. Davis asked if the applicant has identified any endangered species and if a plan is in place to protect their habitat. Staff stated that no identification has been made but in the approval process, if a full inspection from the correct authorities were required then staff would make sure that happened.

C. Graffy expressed her understanding of the need for emergency vehicles to have sufficient access to everyone but questioned whether the eastern access needed to be opened 100% of the time which could create Hagers Road being part of this development which could potentially create a very long block exceeding the 800-foot block length. Staff stated that block length would not apply to the existing block in combination with the proposed block.

The applicants presented their proposed project.

F. Gammon made a Motion to Approve R21-04 as it is consistent with the Huntersville 2040 Plan, specifically policies LU2, 2.1, 5, 7, 9, 9.1, 11, 11.1, 11.2 and EOS 10. Further, the proposed density is consistent with its location in the Town Core. The Planning Board adds the following conditions, 1. Written disclosure statements be provided to each buyer that they must sign, 2. Construction traffic not be permitted to use Hager Road, 3. TIA resubmitted, 4. On-street parking, staff comment and all redlines be addressed, 5. East connection be emergency access only and not primary, 6. leave the trees that are in the creek and attempt to save, 7. Full inspection & protection of any protected habitat be conducted and submitted, and 8. 60-foot buffer adjacent to Soil Supply to include a 40-foot undisturbed buffer and a fence. Additionally, a request is made to have the Town consider Hager Road for the CIP road improvement and that any assistance to aligning new development so that public sewer and water can be added along Hagers Road be considered. S. Swanick seconded the motion. The motion passed (8-1) with G. Baber opposed.

- 4.C. Consider Recommendation on Petition #R21-03 Billings Property, a request by Skybrook West LLC to rezone +/- 21.04-acres north of Eastfield Road, just west of the Cabarrus County boundary, from Rural to Neighborhood Residential - Conditional District for a 47-lot subdivision; (Meck. Co. PIN 02111116 & Cabarrus Co. PIN 46703589660000). (*David Peete*)

D. Peete, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Proposed subdivision is for 47 homes. The plans indicate the tree save has been met but does not currently include the location of the trees to be saved. Article 9.9.10 requires a 200-foot setback from towers. This tower was constructed in Cabarrus County and their setbacks are respected and certified documentation indicates the tower is designed to collapse in and does not require a fall-zone equivalent to its height. Staff recommends that a trail connection to the north be provided to connect to the informal trail or Linksland Drive, and that the sidewalk running through the berm along Eastfield Road should meander to provide visibility from both Eastfield Road and Skyscape Drive. A TIA report was not required.

Applicant, S. Moore reviewed the proposed development design and stated that they have no problem writing a covenant stating that anyone in the Skybrook community may use the community garden. The applicant shows 4 lots that do not meet the .25-mile space, but all are located within a reasonable distance from the proposed community garden and the fitness center that they stub to. The goal is age-targeted housing with an HOA maintained community garden which would be the best place for residents to gather. The proposed garden is just over 4,000 square feet which is 8x's the minimum size required. The location is selected to reduce the amount of traffic as much as possible and focus on pedestrian traffic.

The required grading would not permit a good connection to the existing walking trail into Skybrook swim and racquet club. Without tearing down trees that belong to Skybrook HOA or finding a very different path, the applicant did not find a good route to make a full connection.

The applicant stated that to meet the spirit of the Huntersville ordinance, the applicant is willing to place all building pads 200-feet away from the existing cell phone tower. All new residents will be aware of the existing tower, and the aesthetics have minimal change when reduced to 149-feet.

The applicant stated that they intend to match and extend the berm all the way across the NOMAD facility with Phase 10 Skybrook development, in addition to a sidewalk that runs the length and connects to NOMAD as well.

J. Davis asked how the BMP maintenance will be paid if the Skybrook HOA does not want to take the additional homes into their HOA. The applicant responded that the HOA fees of the 47 proposed homes will have to be much higher. The product that they come up with, price points and such will have to be creative and valued such that it can accommodate it.

F. Gammon asked if the properties that sit in Cabarrus County that are annexed into Huntersville will

pay Cabarrus County and Town of Huntersville taxes. The applicant commented that is correct. School locations, building code, etc. will be flushed out when the project moves to that point.

Staff asked the applicant why they are not proposing access to the amenity center if they are welcomed into the HOA. The applicant responded that the amenity center is separate from the HOA, separate dues are involved, and you do not have to be a resident to be a member of the amenity center.

J. Sny made a Motion to Approve R21-03 based on it being consistent with Policy 3T, LU11 and LU12 of the Huntersville 2040 Plan. It is reasonable and in the public interest to approve this as it promotes street connectivity, safeguards the development on that parcel and looks to continue the feel and flow of existing phases of Skybrook. This includes approval of the applicant's request as it relates to the cellphone tower and having the buffer of 149 feet versus 200 feet and showing their intent to try to satisfy that with the building pads at the 200-foot buffer mark. The applicant submits a proper tree save survey that affirms the tree save data they have shared with Town staff and continues to try to work Skybrook H.O.A. to connect the existing and former trails to this new phase and to Linksland Road and address all outstanding redline comments. G. Baber seconded the motion.

J. Sny commented that the proposed development is in keeping with the adjoining development and he understands the difficulty with some of the additional connectivity.

G. Baber commented that applicant is eager to resolve any outstanding issues and he supports it.

J. Davis commented she cannot support the reduction of the buffer around the cell tower, and if the plan was redesigned Linksland Drive could be extended, and without a path to get to the public amenities are too many outstanding issues.

S. Hensley asked the applicant if he addressed the recommendation to extend the trail. The applicant responded that it is their desire and goal to be accepted into the Skybrook HOA. The trail connection is already there informally, and the HOA has not expressed a desire to have it formally connected, if it is the desire of the Board to have it connected the applicant is happy to comply.

G. Baber asked the applicant to clarify why Cabarrus was comfortable with the 149-foot setback from the cell tower. The applicant responded that when the cell tower was built by SBA in 2013, they had the engineering documents that says that if there is a failure the tower will collapse into itself. Therefore, Cabarrus felt comfortable with requiring the distance recommended by the engineers.

D. Partee commented that he could not support the project as he is reviewing the Staff analysis page 4 and 5 states that the 2040 Plan does not support the following project through the various listed policies unless a review of the project can be made with the staff comments to understand what can be done to address these discrepancies.

J. Sny commented that his understanding is that the staff report indicates both items from the 2040 Plan that support and do not support the plan. He then asked staff what the origin of the cell tower setback is for Huntersville. Staff responded that to the best of their knowledge, the maximum height allowed is 190 feet, so the setback appears to account for that.

J. Sny asked if the applicant demonstrates the effort to make the connection, but the other party is not agreeable, is there anything additional that is done or required of the applicant. Staff responded that an applicant may show diligent effort to make the connection and that it is simply not possible, and the Town Board can consider accepting that or encouraging the applicant to continue to seek the connection.

The motion passed (7-2) with J. Davis and D. Partee opposed.

- 4.D. Consider Recommendation on Brown Subdivision, a request by Bowman Development Group, Inc. to subdivide 36.41-acres located south of Huntersville-Concord Road at 13831 Asbury Chapel Road into

54 single-family lots.

D. Peete, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as Exhibit D and incorporated herein by reference. Staff provided a review of the by-right subdivision proposed in Transitional Residential. The proposed density is in keeping with the zoning. The applicant has reserved land for the greenway master plan. CMS report indicates some numbers over the 100% threshold. One block length modification request is included to exceed the maximum by about 150 feet. Staff is supportive of that because there is no opportunity to introduce a stub to the west. There were no TIA requirements but there likely will be from NCDOT. All other redlines and transportation comments will need to be addressed. From the stub to Asbury Chapel Rd. will be the smallest cross section, unless there is formal on-street parking, staff will look to work with the applicant to provide appropriate speed calming so that it does not become problematic.

F. Gammon asked how the above ground power lines will be treated or if they will remain and how will construction traffic be addressed for Mirabella. Staff stated the applicant can speak to the power lines and the existing roadblock at the stub for Mirabella will remain in place. The applicant, N. Bowman, 13815 Cinnabar Place stated that the poles are Energy United, but the development will be served by Electricities and Energy United has not responded yet.

F. Gammon asked if there is any update from the Colonial Pipeline comment noted on 4/2021 and asked if the applicant intends to have a disclosure statement for the home buyers. The applicant stated that the attorneys are sorting it out and will indicate how to proceed.

J. Davis made a Motion to Approve as the application is complete and complies with the 2040 Plan, Policy LU2.2, LU9.2 and LU10.2 with the following items addressed: all outstanding transportation comments are addressed, all outstanding redline comments are addressed, street running East and West that connects Mirabella to Asbury Chapel Road should incorporate a traffic calming device to be determined by staff and the applicant, to provide a trail connection from Roosevelt Grove Drive to the future greenway easement, and with the block length waiver allowing for the modification request for the 950' block length, and that all TIA and NCDOT required improvements are provided. F. Gammon seconded the motion.

F. Gammon recommended an amendment ensuring that no traffic access through the Mirabella subdivision and potential Brown Subdivision homebuyers receive disclosure in writing of the past, present and future environmental impacts of the Colonial Gas line spill upon the Brown subdivision and adjacent properties. J. Davis accepted the amendment. F. Gammon accepted the amendment.

J. Snyder asked staff if there is any concern regarding the power lines being buried as indicated on page 7 of the staff report when the applicant has now stated that they do not have a response from Energy United. Staff stated that the plan indicates they will be buried and not meeting this will be an issue. The applicant stated that their utilities will be buried but it is not yet known what Energy United wants to do with their line.

The motion passed unanimously (9-0).

5. Other Business

5.A. Consider appointment of Chairman and Vice-Chairman

J. Davis nominated J. Snyder as Vice-Chairman. J. Snyder accepted the nomination. This appointment was made unanimously (8-0).

G. Baber nominated S. Swanick as Chairman. S. Swanick accepted the nomination. This appointment

was made unanimously (8-0).

5.B. Discussion of Amendments to Rules of Procedure

G. Baber made a Motion to Defer hearing Items 5B and 5C until a Special Meeting can be called. S. Swanick seconded the motion. The motion passed unanimously (9-0).

5.C. Discussion on Planning Board training/refresher with Town Attorneys

6. Adjourn

J. Davis made a Motion to Adjourn. S. Swanick seconded the motion. The motion passed unanimously (9-0).