



**Minutes
Regular Planning Board Meeting
August 24, 2021 - 6:30 PM
Virtual Meeting**

1. Call to Order/Roll Call

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

2. Approval of Minutes

2.A. Consider approval of the July 27, 2021 Regular Meeting Minutes

C. Graffy made a Motion to Approve the July 27, 2021, minutes. S. Hensley 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*

4. Action Agenda

4.A. TA21-06 Detached Garages in Farmhouse Clusters

L. Speight, Planner II entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff reviewed the proposed amendment to allow a greater flexibility for detached garages in farmhouse clusters only which generally have a requirement to be rural in appearance. The proposed amendment would allow placement in the side yard. The Huntersville Ordinance Board reviewed the item and unanimously recommended approval. Staff also recommends approval.

F. Gammon made a Motion to Approve TA21-06 to amend Article 3.2.1 (e,6) and amend Article 3.2.2. (e,6) to allow detached garages in the side yard of home lots in farmhouse clusters. The recommendation for approval is based on the amendment being consistent with policies LU 7.1 and LU 9.2 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning ordinance because it allows home lots in farmhouse clusters to minimize grading and maintains a generally rural appearance of a farmhouse cluster from the public street view. J. Davis seconded the motion. The motion passed unanimously (9-0).

4.B. R21-09 Caldwell Creek Mixed Use rezone from Corporate Business (CB) & Transitional Residential (TR) to Traditional Neighborhood Development – Urban Conditional District (TND-U-CD) for a mixed-use development with commercial, apartments, and townhomes.

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 reviewed the proposed use of 25,000 square feet of commercial use along the southern boundary, 268 market rate apartments near the center of the project, 125 age restricted units on the eastern portion, and along the northern boundary 35

single family townhomes. This is a total of 428 proposed units with a density of 11.2 units/acre. The development would include a quarter mile of the Church Street extension as well as a quarter mile of the Seam Trail formerly known as the Charlotte – Mooresville Trail, part of the Carolina Thread Trail System. The applicant is proposing a greater tree canopy and specimen save than required.

The applicant is requesting three modifications. The first is a commercial footprint square footage increase from Article 3.2.11 (b) of up to 6,000 square feet to increase to 8,500 square feet on the first floor. This request is due to the required intersection placement of Old Statesville Road and Coach Lane in conjunction with the railroad crossing and topography. Staff states that this is in keeping with the spirit of the Ordinance and they would support the request.

The second modification is for side yard parking. Article 4 indicates parking shall be located to the rear of the building. The applicant is requesting a 50' setback, garage, and evergreen screening in the side yard. Staff states that this is in keeping with the spirit of the Ordinance and they would support the request.

The third modification is for a buffer disturbance along the eastern border of the project. To construct the thoroughfare and BMPs there need to be retaining walls. To accomplish this the 20-foot buffer would need to be disturbed. The applicant is offering to replant that at the rate outlined in the Ordinance of 3 trees and 10 shrubs per 1,000 square feet. Staff states that this is in keeping with the spirit of the Ordinance and they would support the request.

TIA requirements indicate various improvements and a requirement to close Mayes Road and Caldwell Station railroad crossing with a new signalized light and railroad crossing at Coach Lane which would be required on day one of the project.

The projected is located within a mixed-use node as noted in the Huntersville 2040 Plan.

D. Partee asked if the developer had an opportunity to speak with the nearby church regarding the concerns, they expressed related to traffic impact. The developer, Michael Cox, 5128 Bright Road, Charlotte replied that he met with David from the church and reviewed his concerns regarding the traffic, access concerns and connecting to sewer and water. The access concerns were brought up with staff and found not to be an option due to site constraints. The applicant expressed that they would like to work with the church to assist with the other areas of concern when they arrive at that point with the project.

F. Gammon asked if the church tying into the developments BMPs was also discussed. M. Cox confirmed that is correct and they are willing to talk through from an engineering standpoint what that would look like to determine if it is an option that can be pursued.

S. Swanick asked staff why the proposed closings and singular new railroad crossing are being recommended. Staff reviewed that it is a requirement to close three railroad crossings when a new crossing is built. Traffic on Mayes Road will need to take Caldwell Station Road through the proposed new development to cross at the new signalized intersection.

S. Hensley asked the applicant if it will be a phased development. M. Cox responded that at this time their goal is one phase.

C. Boyd asked if Caldwell Station Road is at a sufficient level of service to accommodate the Mayes Road traffic and how the traffic at Mayes Road will be directed to make the hard turn to Caldwell Station Road. Staff commented that Caldwell Station Road is an NCDOT maintained road and the final determination has not been made regarding possible improvements. Michael Incline with Design Resource Group, 2459 Wilkinson Boulevard Charlotte stated he works with the firm that did the traffic study for this and he believes that that the curve will either be flattened out or it will be a stop condition for Caldwell Station Road with Mayes Road having the right-of-way, all of which will be determined by

NCDOT during permitting and design of the site.

F. Gammon commented that Mayes Road does not appear to be at a service level sufficient for three development projects and asked the applicant if they would be willing to commit to doing their best to open an alternate rail crossing as soon as possible. The applicant commented that they are open to the discussion, but it is entirely up to Norfolk Southern.

J. Davis asked how much encroachment or disturbance is expected related to modification number 3 buffer disturbance. Staff responded that all of the buffers will be disturbed for the construction of the retaining wall. Given this abuts a radio tower and not a residence and the applicant will replant, as long as the applicant has a formal encroachment agreement staff is okay with the disturbance.

S. Hensley made a Motion to Approve R21-09 Caldwell Crossing Mixed Use, the Planning Board recommends approval including modification 1) allowing the first floor of each commercial building to be up to 8,500 square feet, modification 2) allowing limited parking in the side yard as most recently proposed on the site plan, modification 3) buffer disturbance along the eastern property line as identified in the current site plan; subject to the following conditions: railroad crossing as designed approved by all required authorities, including Norfolk Southern and NCDOT. The Planning Board finds the plan consistent with the Huntersville 2040 Plan LU 2.1, LU 5.1, LU 6.1, LU 7.1, LU 9.1 and EV 1.3. It is reasonable and in the public interest to amend the zoning ordinance because the rezoning plan is supported by section 4, future land use section of the Huntersville 2040 Plan. The required railroad improvements, including a better Norfolk Southern rail crossing as well as additional offsite road improvements will increase the general safety of all residents and visitors in the area. The proposed development will continue to diversify the tax base with additional commercial development and offer a mix of housing options that are needed in Huntersville. G. Baber seconded the motion.

S. Hensley commented that the modifications are reasonable given the site constraints. The condition regarding the rail crossing is not that the signalized light be in place, just that the crossing be approved. His preference would be to see more rail crossings to alleviate traffic but since that is under the control of Norfolk Southern, the focus of improving the safety of crossing by eliminating Mayes Road is still a benefit.

G. Baber asked if S. Hensley would accept an amendment for the applicant to continue to work with Lake Norman Christ Church. S. Hensley commented that would be agreeable as a recommendation but not a requirement. S. Swanick asked if noting the concern of the Planning Board for continued cooperation with the applicant and the church in the minutes would be sufficient. G. Baber agreed.

C. Boyd expressed concern about how many cars will be directed through this neighborhood, walkable area, on-street parking in order to cross the railroad and asked if a speed table is proposed. Staff responded that there is no speed table and that eventually the Church Street extension is proposed to continue down to Highway 73 and up into Cornelius and Davidson, this is simply the first-quarter mile. S. Swanick asked if a 'no right turn' sign to direct traffic to the minor thoroughfare would be appropriate. Staff responded this would best be left to the engineering team to determine.

F. Gammon asked what the possibility is Church Street being a 4-lane road, . Staff responded it is slated to be a 2-lane road with Highway 115 eventually becoming a 4-lane road.

F. Gammon made a Substitute Motion to Approve R21-09 Caldwell Crossing Mixed Use. The amendment is consistent with Article 11.4.7.d of the Huntersville Zoning Ordinance and as such is consistent with the Huntersville 2040 Community Plan policies LU 2.1, LU 5.1, LU 6.1, LU 7.1, LU 9.1 and EV 1.3. Further the amendment is consistent with Article 11.4.7.3 of the Huntersville Zoning Ordinance as follows: the proposed rezoning is consistent with the overall character of envisioned development in the immediate vicinity; the adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit services, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage

systems, water supplies, and wastewater and refuse disposal. 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. With site plan changes to remove the offsite grading near the historic Caldwell Station School and providing additional buffering near the school the proposed rezoning will not adversely affect a known archeological, environmental, historical, or cultural resource. The Planning Board also recommends approval for: modification #1 – article 3.2.11 (b) of storefront building type to “up to 8,500 sf of first floor areas (12,500 sf total) for each commercial building as the modification is in keeping with the spirit of the ordinance and therefore supported; modification #2 - side yard parking between apartments B&C, E&D, and H&I based upon agreement with staff to provide a 50 foot setback of garages and evergreen screening; modification #3 – buffer disturbances, a 20 foot buffer on the eastern boundary to accomplish grading, applicant will replant buffer in coordination with staff to ensure compliance with zoning ordinance. Approval is contingent upon the applicant obtaining approval from NCDOT rail and Norfolk Southern to close the Mayes Road and Caldwell Station Crossing sites and approval to open a new crossing site at the intersection of Highway 115 and Colony Road. Revising the site plan to remove off-site grading at the historical Caldwell Station and the Lake Norman Church of Christ. Working with staff to provide additional buffering adjacent to the Caldwell Station site. Submitting specific building elevations for proposed structures. Clarifying how the townhomes adjacent to the greenway will be assessed to meet standards and addressing all outstanding redline comments with staff and an additional request that the applicant continue working with Lake Norman Church of Christ to resolve concerns regarding connection and entry to church from Highway 115 and access to sewer, stormwater and develop BMPs. J. Davis seconded the motion.

There was no further discussion. The motion passed unanimously (9-0).

4.C. **Ranson Road Subdivision**

B. Richards, Assistant Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff reviewed the proposed 36 single family homes for a density of 2.89 units/acre. An overall open space of 1.6 acres and three urban open spaces. The applicant is requesting one block length modification to 1,043 feet which is the result of creating a larger buffer to the existing neighbors. Staff supports the block length waiver as it creates a better buffer to the existing neighbors. The proposed development is located with the Town Core as identified in the 2040 Plan.

S. Swanick asked for clarification regarding a spite strip. Staff expressed it is the buffer on the entrance that could in the future be used for redevelopment of the adjacent properties.

J. Davis made a Motion to Approve Ranson Road subdivision sketch plan as the application is complete and complies with the Huntersville 2040 Plan, specifically EO5.3 and policy T3.1. Furthermore, Planning Board recommends approval of the block length modification and requests the applicant provides additional right-of-way along Cask Lane, additional on-street parking is accommodated, and all other plan comments are addressed. F. Gammon seconded the motion.

F. Gammon requested an amendment for no construction traffic access through Cobblestone Manor subdivision. J. Davis accepted the amendment.

G. Baber stated he plans to vote denial not because of the motion but due to the density. It is in keeping with newer developments but is nearly twice as dense as adjacent developments. This appears to be the trend in development and leads to the question about where the density will continue to go in the future.

D. Partee asked if there were any additional negative comments that have been unaddressed from the neighborhood meeting. Staff commented that to the best of their knowledge the concerns were addressed with the increased open space and larger buffers.

J. Davis commented she did not support this during the neighborhood meeting either, but she appreciates the adjustments the applicant has proposed to address neighbor concerns and keep the density within

what is permitted in the zoning, and that is why she now supports the plan.

The motion passed (8-1) with G. Baber opposed.

4.D. **Petition #TA21-09, a request by Strategic Capital Partners to amend the Zoning Ordinance allowing the Board of Commissioners to approve modification of a SWIM buffer through a conditional rezoning process in the Corporate Business zoning district.**

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit D and incorporated herein by reference. Staff reviewed the map outlining the SWIM buffers for the Town of Huntersville which identifies perennial and intermittent streams. Currently impact of an intermittent/perennial stream requires a variance with mitigation. The proposed text amendment would allow impacted areas within Corporate Business zoning to go through a conditional district rezoning. and mitigation. The same mitigation results are accomplished through a different package.

S. Hensley asked if Special Purpose district should also be included in the text amendment. Staff responded that this is applicant driven and staff was hesitant to include Special Purpose as it has more heavy manufacturing and more nuisance uses.

F. Gammon asked what the other towns are doing regarding this and would this create unnecessary hardship in other zones. Staff stated that several of the towns require variances similar to what we do today, some allow impacts to SWIM buffers without anything special but do one of the nine mitigation options (all municipalities use the same mitigation options). The proposed amendment is a middle ground option in requiring a conditional rezoning. The Ordinance Advisory Board will review this and consider if it should be expanded to other zones. S. Irvin, 19726 Zion Ave, Cornelius, NC 28031 responded for the applicant that Huntersville's rules apply to all streams regardless of drainage area, in Davidson SWIM buffers are required for stream segments that are draining greater than or equal to 50 acres, Cornelius is similar to Davidson but only when greater than 50 acres, and in Mecklenburg/Charlotte/Pineville it is for greater than 100 acres and no buffer requirements when less than 100 acres.

C. Graffy asked what is being adjusted to the mitigation options. Staff clarified that the only mitigation option being adjusted is bottom land hardwood preservation to ensure that trees are not being counted twice.

S. Hensley made a Motion to Approve TA21-09 based on consistency with LU8, EV1 and EOS1 of the Huntersville 2040 Plan. It is reasonable and in the public interest to amend the zoning ordinance because the amendment allows greater flexibility and an additional option to impact SWIM buffers subject to a conditional rezoning and mitigation. C. Boyd seconded the motion. The motion passed (8-1) with F. Gammon opposed.

4.E. **R21-08 - Beltway 77 Industrial rezone subject properties from Corporate Business to Corporate Business Conditional District to modify the ordinance buffer requirements for the proposed industrial development.**

B. Priest, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as Exhibit E and incorporated herein by reference. Staff reviewed the plan of over million square feet of office/warehouse/distribution space. The purpose of the rezoning is to modify the buffer requirements along the internal street and along Highway 77 from 50 feet down to 25 feet. As part of this application, the applicant is looking to get approval to disturb some SWIM buffers based on the proposed TA21-09 just discussed. The applicant has agreed to resubmit their mitigation plan to either do wetlands preservation or hardwood preservation. The TIA will need to be finalized and the applicant will have to commit to the adjustments prior to the Town Board hearing, however that has not been completed at this time. The buffer modification would be at pinch points where the buffer would be reduced to 15-20 feet. With the proposed landscaping staff is comfortable with the screening. The tree mitigation does not

currently meet the 30% specimen tree save so the applicant is looking to mitigate, which is permitted, and will be administratively finalized.

Staff is comfortable not requiring that the greenway go through this property as shown in the 2040 Plan as Parks and Recreation have stated that they will be emulating the Mecklenburg County Greenway plan which has the path going around this parcel. The applicant is also requesting a block length waiver which staff supports based on the difficulty of trying to have a connected street to the east of this property where the highway is or to the west where the cemetery and creek are located. Staff and the applicant are discussing potential traffic calming devices to install.

The applicant is including the Hambright connection in TIA assumptions for CATS proposed Park and Ride operations. It is possible that the applicants project will be completed prior to CATS construction being completed but staff is confident that all parties are in support of this it just a matter of when it will be built. Staff recommends approval with conditions of the remaining outstanding items.

C. Boyd asked for confirmation that the greenway will still be supported. Staff confirmed that the preferred Mecklenburg County route will be supported which does not run through the parcel.

D. Partee asked staff about the statement in the report that states that the building will destroy existing wetlands, qualifying and intermittent streams and asked how the developers will address the stream flow and prevent flooding/drainage of the streams. Staff responded that the engineers would review the plan to have the water that falls flow into the BMPs and then ultimately continue on into the streams.

J. Davis asked for confirmation that the wetlands are rain fed and not spring fed. Staff responded that the applicant has completed a wetland study and he believes that would have been identified. Austin Watts, Kimley-Horn 200 S Tryon Street Charlotte; he stated that to the best of his knowledge these are not spring fed they are simply catching the runoff that is currently grading to them and upon development would be graded with an additional 20 feet of fill that would go over the top to prevent any type of vapor intrusion.

S. Hensley made a Motion to Approve R21-08 based on the amendment being consistent with the 2040 Community Plans policy LU1.1, LU5.1, LU7.1 and the Economic Development Goal to maintain the current percentage of tax revenue in non-residential uses. It is reasonable and in the public's interest to amend the zoning ordinance because the proposed zoning CB is the same as the current zoning and therefore no additional uses are allowed due to this plan. Our recommendation is subject to five conditions; 1. That the SWIM buffer amendment is adopted, and mitigation is approved. 2. The TIA is accepted, and all required mitigation is committed to by the applicant. 3. Updated tree mitigation plan is submitted showing conformance to Article 7.4. 4. The rezoning notes are amended to keep the general design of the buffer, the street and the frontage conditions. 5. Minor comments on the plan addressed prior to final approval. J. Snyder seconded the motion.

C. Graffy expressed concerns regarding the staff's comments that they do not support without the outstanding issues which are included in the motion but appear significant regarding the TIA, the mitigation plan, the multitude of rezoning notes which could allow major changes to the plan without the Planning Boards review or input. In her opinion it feels negligent to turn this over to the Town Board for their consideration without input on these five issues despite her support of this project.

G. Baber commented he was also uncomfortable to begin with but with the updates to the plan he is now comfortable supporting the plan.

F. Gammon expressed he also shares the concerns and the text amendment that this is predicated on. He does not want to hold that against this project which is a great tax base and beneficial to the Town, but he does have a concern about saying that a variance is an unnecessary hardship when it is just a requirement, not an unnecessary hardship.

S. Hensley expressed his agreement to have everything clean and ready to move to the Town Board which is part of their job as the Planning Board. He feels that with staffs updates he was comfortable with the five modifications he put in the motion which are really at an administrative level and are either completed or the plan is not approved.

The motion passed (8-1) with C. Graffy opposed because it is not deferred.

4.F. **TA21-10 - CB/CI/SP - Buffer flexibility along public streets and rights of way**

B. Priest, Principal Planner entered the Staff Report into the record, a copy of which is attached hereto as Exhibit F and incorporated herein by reference. Staff reviewed the current Article 7.5.3 footnote which has a provision to remove the 80-foot buffer if you meet the qualifications. The trend has been to request this modification to make existing parcels work for their projects. The Huntersville 2040 Plan recommended that within the Employment Centers we may want to review this requirement for potential flexibility along the street frontages.

The proposed language specifies requirements for reduction of buffer and places some tiers instead of eliminating the buffer altogether.

C. Boyd asked what type of architectural elements are required to reduce the buffer. Staff reviewed some samples based on Article 4 which would include a build-to line, windows, doors and be constructed to be pedestrian friendly to their business.

D. Partee made a Motion to Approve TA21-10 to amend Article 7.5.3 to add flexibility to the CB/CI/SP buffer, the Planning Board recommends approval based on the amendment being consistent with the 2040 Plan policy LU7.1 AND EV2. It is reasonable and in the public interest to amend the Zoning Ordinance because the amendment would allow economic development site design flexibility, while preserving the aesthetics of the public street and pedestrian realm. C. Graffy seconded the motion.

The motion passed unanimously (9-0).

5. **Other Business**

5.A. Discussion on Affordable Housing

S. Swanick commented that this is a topic important to him that was not covered in-depth in this Huntersville 2040 Plan. The example was given of Davidson who has an entire section of their Ordinances dedicated to addressing Affordable Housing. There are at least nine communities listed with affordable housing components. Development restrictions requiring 12.5% of every development being required to have an affordable component with affordability being defined by a percentage of the average median income in the area.

A model that makes affordable housing work is having the developer price a product at 'below market' and then deed restrictions are placed on the property so that when it is sold it must be purchased by an owner-occupant and cannot appreciate to its true market value, keeping it at an 'affordable' price point to make it possible for buyers to qualify for home ownership.

He then proposed a sub-committee to identify how this issue can be addressed by the Town of Huntersville with cross-board participation.

J. Davis commented that she appreciates this topic being brought up and she would be happy to participate on a sub-committee. She agrees that more options are needed for families to be able to live in Huntersville.

D. Partee commented he would be interested in serving on the sub-committee to look into a system that can be brought to Huntersville Town Board. We are one of the towns that have been remiss in trying to

look into a project such as this.

C. Graffy asked staff if there is a map that shows housing values and prices in different sections of town and/or rental rates. Staff responded that we do not have that data and it is data that changes so rapidly it would be difficult to keep up to date. Staff commented that within the Town Core the Neighborhood Residential zoning does not have a minimum lot width or lot size requirement so the zoning would permit affordable housing, it simply has not been taken advantage of by developers. Additionally, the Town has permitted by-right accessory dwelling units for 25 years as another option. In the case of Davidson, they are taking a proactive role to require 12.5% of affordable housing which has legal challenges.

S. Swanick commented that the real estate market may have the tools we are looking for that could assist us with this research. In response to staff comments, he agrees that the Town has methods in place and the question is, can we do more as a Town? Should we do more so that certain populations are not let behind or that affordability necessitates that they live 45 minutes away.

J. Davis asked if Staff is in support of starting a sub-committee on this topic at this time. Staff responded that we would do what we need to do to support the community, we happen to be extremely busy at the moment with new staff getting trained and up to speed, and it would be helpful to know what the Town Board would like staff to dedicate the time to given this is a huge issue.

S. Swanick asked if the Planning Board can formulate a sub-committee for their discussion only so that they can determine what they would like to present to the Town Board, and what the requirements are of Board members regarding having these discussions. Staff recommended that those interested review with Town Attorneys what is permitted.

All those interested have decided to reach out to Town Board members by email and determine if there is an interest and if they would like to add forming an Affordable Housing sub-committee to the September Planning Board agenda.

5.B. Review updated Rules of Procedure

J. Simoneau reviewed with the Board that there was adjusted language under Item 5, Section III for their review. The updated Rules of Procedure may be considered for a vote at the September meeting. There were no questions or concerns regarding the updated rules.

5.C. Discussion on Planning Board trainer/refreshers with Town Attorneys

The Board has requested that we poll them for a virtual training on a Tuesday evening.

6. Adjourn

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