



**Minutes of the Meeting
Regular Planning Board Meeting
September 28, 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. Sny and D. Partee

2. Approval of Minutes

2.A. Consider approval of the August 24, 2021, regular meeting minutes.

F. Gammon made a Motion to Approve the August 24, 2021, minutes. J. Davis 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*

- Greg and Danna Whitman, 14730 Black Farms Road – written comment attached as Exhibit A.
- Adam Worland 15340 Black Farms Rd – written comment attached as Exhibit B.
- Dr. Michael Thomann 15035 Black Farms Rd – written comment attached as Exhibit C

4. Action Agenda

J. Sny made a Motion to Amend the agenda from “Conduct a public hearing” for R21-11 to “Consider a recommendation.” S. Hensley seconded the motion. The motion passed unanimously (9-0).

4.A. TA21-07 Metal Panels for Shopfront Buildings

L. Speight, Planner II 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 current ordinance, Article 4 which outlines the currently permitted uses for metal panels and the zoning it is permitted within.

C. Boyd made a Motion to Approve TA 21-07, to amend Article 4: Shopfront Building, Architectural Standards of the Huntersville Zoning Ordinance to allow shopfront buildings to use decorative metal panels such as Aluminum Composite Material (ACM) panels as an accent or trim material, the Planning Staff recommends approval of the application based on the amendment being consistent with policies LU-8, LU 8.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it allows greater flexibility in exterior material types for shopfront buildings and the Zoning Ordinance

currently allows metal panels as accent and trim materials for Highway Commercial and Urban Workplace building types. D. Partee seconded the motion.

C. Boyd commented that the examples provided look sharp and he is glad the developers are selecting something that looks so nice.

D. Partee commented that he agrees that it looks good and that developers should have good flexibility to make Huntersville beautiful.

C. Graffy commented that she believes the use of this material up to 30% which will ensure that this material is used in a decorative fashion or as a design enhancement which will contribute to the overall positive appearance of some of the properties.

The motion passed unanimously (9-0).

4.B. Birkdale Village Subdivision Revision

B. Richards, Assistant Planning Director 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 proposed revisions to the existing site which focuses primarily on the center portion near the existing fountain. The proposed revisions include three small jewel box buildings, adding some smaller retail buildings near the movie theater, reconstructing the fountain and abandoning some of the right-of-way Lindholm Drive.

Staff shared that the tree save that applies to this development is the 2001 Zoning Ordinance. The applicant is proposing removing 32 trees and planting 21 new trees. As construction documents are reviewed, there will be a review to see if any additional trees can be saved.

There is a reduction of Urban Open Space, no net change of impervious area, a removal of 78 parking spaces which will continue to exceed the required number of parking spaces and the applicant is proposing the addition of a concierge parking service.

The applicant is requesting a block length modification due to the closure of Birkdale Commons Parkway which is currently 514.79 feet and is proposed to become 575.54 feet. Staff supports the modification as it creates a larger open space which has the potential to be a great centerpiece for residents and the Village.

S. Swanick asked what a jewel box building looks like. Staff responded that they are smaller footprint stores that can allow smaller businesses an opportunity to get started and typically have a second story attraction such as a bar or restaurant.

G. Baber asked if the potential buildings on the northeast side could potentially be used for. Staff responded that the applicant has stated they may be a good fit for a bubble tea, seasonal shops, or kiosk type design.

S. Hensley asked what the traffic flow will be with the proposed right of way abandonment and if the intersection of Birkdale Commons Parkway and Townley Road is four-way stop. Staff confirmed that traffic studies are still being finalized but staff is comfortable if it results in a U-turn at Townley Road which is a four-way stop now.

F. Gammon made a Motion to Approve Birkdale Village Subdivision sketch plan revision as the

Planning Board finds the application is complete. The Birkdale Village Subdivision sketch plan revision is consistent with adopted public plans and policies and complies with all applicable requirements of the Zoning Ordinance and the Huntersville 2040 Community Plan as stated within the findings of facts in parts 2-4 of the staff report. The proposed Birkdale Village Subdivision sketch plan revision lies completely within the Huntersville 2040 Plan Town Core future land use character area and is supported by policies LU 5.1, LU 6.2, LU 8.1 AND EV-2.1. Based upon these findings the Planning Board recommends approval of the Birkdale Village Subdivision sketch plan revision. The Planning Board also recommends approval of the requested block length modification for Birkdale Commons Parkway not to exceed 575.54 linear feet. The recommendation is contingent upon approval of the block length modification approval by the Town Board and all remaining redline comments are satisfactorily addressed with the staff. J. Davis seconded the motion.

F. Gammon commented that he feels confident Birkdale will be committed to the trees because he knows that they will want that atmosphere.

J. Davis commented that she is in support of adding more economic development to Huntersville.

The motion passed unanimously (9-0).

4.C. Consider recommendation on Petition #R21-06, North Creek Village Mixed-Use, a request by Magnolia Development, LLC to rezone +/- 84.00-acres south of the NC 73 and Davidson-Concord Road intersection from Rural to Highway Commercial and Traditional Neighborhood Development - Conditional District for a development consisting of 42,500 commercial sq. ft., 303 multi-family units, 65 attached units and 77 detached units (Parcels: 01107311, 01126101 & 01126113). (David Peete)

D. Peete, 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 proposed 303 apartments, 65 attached units, 77 detached units and 42,500 square feet of commercial. The proposed density is 5.3 units/acre for this project and 3.96 units/acre for the project in its entirety. The site overlays an activity center and a rural conservation area.

The TIA report has been accepted which outline some left-turn lanes on Davidson-Concord Road, 100 feet of storage heading eastbound in a right-turn lane on NC73. Westbound left turn lane on NC73 with storage, northbound Prosperity Church Road exclusive left-turn lane with storage and exclusive right turn lane with storage and an eastbound left-turn lane on NC73 with storage. NCDOT commented that they are looking for an additional southbound lane on Prosperity Church Road which could have an impact on either this site plan or the previously approved site plan.

The CMS school report reflects the impact the development would have on the local schools. The applicants have proposed the apartments being over 200 feet from the property line with at least 50 feet of undisturbed buffer and a future greenway with a connection to the apartments that the applicant will build being the only disturbed area within those 200 feet. The buffers meet the ordinance requirements. The TND-U design compliance of walkable pedestrian scale blocks, including the perimeter, was a concern that has been addressed by the augmented pedestrian path. The perimeter of the two of the blocks exceeds the recommended 1,350 feet but is in keeping with the spirit of the ordinance and staff is comfortable recommending approval of this.

Samples of commercial building elevations have been provided based on surrounding architecture demonstrating the heights and materials being proposed. Apartments and Townhome elevations have not been provided and staff would like to review these.

The alternative frontage has been addressed with the addition of the greenway. Parking lot screening is in compliance and all issues have been addressed. Residential pedestrian circulation has been addressed as noted above in the TND-U design compliance. The commercial area pedestrian circulation has not been provided and staff would like to review these.

On-street parking for apartments and townhomes have been added however the on-street parking for all lots under 50' in width have not yet been incorporated into the design. This is something staff would like to see incorporated into the plan.

The applicant is asking for a cell tower setback for the 94' tall cell tower and it is staff's recommendation to approve this request. The stub to the north will need to be finalized when the setback determination is finalized.

There was a recommendation that the proposed stormwater feature provide maintenance access and landscape/screening which the applicant has confirmed will be implemented. Additionally, there was a recommendation that the previously approved residential section have a connection to the new residential section by footpath. The applicants have stated that they will look at the feasibility of incorporating this.

G. Baber asked for a review of how this proposed project fits with the Future Land Use map of the Huntersville 2040 Plan. Staff confirmed that it overlays the activity center identified and the rural conservation zoning.

C. Boyd asked where the Prosperity Church Road extension would continue south through this proposed development. Staff confirmed that the applicant's proposed alignment is in keeping with CRTPO proposed alignment and to be environmentally friendly to the creek crossing.

S. Hensley asked what the permitted density is within the rural conservation area. Staff confirmed that rural conservation is consistent with rural zoning which is .9 units/acre.

J. Sny asked how the Prosperity Church Road extension would affect Ramah Church Road. Staff confirmed that it is proposed to connect north of the Ramah Church then go east of homes along Ramah Church and reconnect at Hiawasse.

F. Gammon asked if there was a schedule with the proposed Prosperity Church Road expansion and if this would intersect Black Farms Road. Staff confirmed that there is not a schedule and it will not intersect Black Farms Road.

J. Davis asked for confirmation that the proposed development is extending further than the proposed node and if we have a small area plan established and researched for this area and expressed concern regarding the density of the townhomes that abut the very large rural lots. Staff confirmed that there is not a small area plan, there was a study done quite some time ago and as a reminder the node or activity center drawing here is not to scale or parcel specific it is merely a visual rendition. There are portions of the vested project and the current project that you could say are beyond the activity center area and the proposed density within those areas most closely approximating the rural density.

D. Partee asked staff if the rumors related to Charlotte Water's willingness to serve letters for areas east of Highway 77 are delayed until possibly 2027 due to an inability to handle the sewage coming out of that area, and if not 2027 will development be held up that should be considered by the Planning Board and staff until there is a definitive answer. Staff responded that there is an issue with Charlotte Water but there has been no comment about 2027, only related to the calculations and how many gallons per household. It is staffs understanding that there will be a solution in the near future and staff is comfortable with presenting this plan which is in keeping with the proposed activity center. The development community is also aware of the adjustments Charlotte Water is considering and they are making their own adjustments as needed.

J. Sny asked for confirmation that Black Farms Road is an NCDOT road and how the TIA addressed traffic on Black Farms Road. Staff confirmed that it is an NCDOT road and Black Farms Road is not addressed on the TIA.

Stephen Vinson, Magnolia Development Company 4200 Lambeth Drive Raleigh NC 27609 reviewed the time invested in the project and that they view the proposed project as a natural extension of the approved project.

Brian Jenest from Cole, Jenest & Stone 200 S Tryon Street Charlotte NC reviewed that the goal is in keeping with the activity center to create a vibrant, pedestrian-accessible mixed-use area with restaurants, small businesses and housing.

Sean Paone, Cole, Jenest & Stone 200 S Tryon Street Charlotte NC reviewed the North Creek Village Master Plan, Phases 1 and 2. He then reviewed that the pedestrian paths through the commercial area are proposed and outlined where they would be located. The buffers for all residential areas are a minimum of 20 feet with the buffers around the townhomes proposed at 50 feet including supplemental landscaping and a tree save minimum of 30% being met. The concerns regarding the tightness of the turn in the 60-foot width lot area have been addressed and the applicant has committed to designing it for a 20 mph speed limit with some traffic calming measures. Conceptual art illustrations and examples of proposed multi-purpose path, pocket park and pedestrian connectivity designs were all shared. A cross-section image was shared to show the proximity of the proposed multi-family structure to the nearest existing structure which is a barn 570 feet away and to the nearest residential home is 950 feet away.

S. Irvin, Irvin Law Group, 19726 Zion Avenue Cornelius NC identified that there will be two greenway paths, one adjacent to the multi-family homes and a second further within the undisturbed buffer. The goal of the TND zoning is to have a very walkable, pedestrian friendly community. The pedestrian connections, greenways and the buffers make a very unique and compatible design for this zoning. The proposed project honors the density transition with a density of 1.5 on the southern end.

S. Hensley asked if the greenways will be constructed at time of development and not just reserved, what the size of the buffer is at Black Farms Road and if it is undisturbed or will be landscaped. The applicant confirmed the greenway will be built at the time of development, the proposed buffer at Black Farms Road is 80 feet and there are existing trees and the access to the existing cell tower which will be realigned to the new public streets.

J. Davis asked if the tree save counts include the trees in the dedicated right of way for the future thoroughfare and if the Planning Board should take that into consideration. The applicant

commented that the trees within that right-of-way are not being counted towards the minimum 30% tree save for the project. It is just being dedicated and maintained until the road is extended.

F. Gammon asked if the greenways would be natural surface or paved. The applicant responded that they will be paved.

S. Swanick referred to the Huntersville 2040 Plan definition of an Activity Center and highlighted that the target of non-residential was 40,000 square feet. He then asked for confirmation that there is already 181,000 square feet vested and this proposal includes another 42,000 square feet which is six times the intended size. Staff confirmed that is correct and the existing center is vested which was known going into the Huntersville 2040 Plan and the proposed size limits were intended for projects going forward.

J. Sny made a Motion to Deny R 21-06 North Creek Village Mixed-Use to amend the zoning from Rural to Highway Commercial (Conditional District) and Traditional Neighborhood Development – Urban based on the amendment being inconsistent with policy LU-11 and EOS-6 of the Huntersville 2040 Community Plan. It is not reasonable nor is it in the public interest to amend the zoning parcel. It does not protect and enhance the unique character, nor does it preserve the rural elements specifically of Black Farms Road and Ramah Church Road. These two roads have specifically been identified in the 2040 Community Plan as scenic resources and they should have corridors designed specifically that preserve the scenic beauty. J. Davis seconded the motion.

J. Sny commented that Black Farms Road being a designated scenic corridor and the effect on Ramah Church Road because this development butts up against residential that runs along that road, when you look at then connecting that to almost 240,000 square feet of commercial and the density transition along Ramah Church Road of an existing .1 units/acre transitioning to the proposed 1.15 units/acre or an existing .17 units/acre transitioning to the proposed 2.77 units/acre, and the portion adjacent to Black Farms Road existing at 2.69 units/acre which is adjacent to Black Farm itself which is 23 acres. He then stated that while he can see that these are transitions but they do not appear to him to be steps but rather cliffs.

J. Davis commented that she agrees with J. Sny's comments, and she appreciates the proposed architectural designs, elevations and mixed use which is what we are looking for in nodes. However, the stepping down is a key element in an area like this and it does not seem to be happening enough. She would also like to see more study done on this area to review traffic, school concerns and what this area should look like.

S. Swanick commented that he will also support denial with his greatest concern being the apartment complex. The existing vested node is going to happen but this level of development adjacent to rural appears to be the opposite of the intent of our zoning ordinance. He echoes the comments of J. Sny and J. Davis as well.

G. Baber commented that he understands the value of development supporting future development with the vested project, but he agreed with J. Davis that without an official small area plan getting behind this much development within our rural zoning is difficult to support. He then stated that approving this project would make it that much easier for another development to want to piggyback alongside this one and that appears to negate a future land use area goal of keeping a rural zone.

S. Hensley commented that as the ETJ member he is often focused on preserving the rural

character of Huntersville and on this project, he identifies with the Huntersville 2040 Plan calling out this area to be an Activity Center and as staff stated those are not absolute drawings. He stated that in his opinion the applicant has done a good job with a challenging piece of property and the proposed uses have good design that should be considered, this is not just an apartment building in the rural zone it is designed to be a significant distance from the adjoining property owners. If there is one point, he does not care for it is the connectivity to Black Farms Road which he is not a fan of, but which Huntersville ordinances encourage. He values Black Farms Road remaining rural and keeping its character and wonders if there is a compromise that there is at least an 80-foot buffer and you will not see multi-family there. In his opinion the applicant has done a nice job trying to get as close as they can to applying the ordinances and making this development work.

F. Gammon asked if there is any conservancy land adjacent to this land. Staff commented that to their knowledge there is not. He expressed that he agrees with S. Hensley and while he has concerns it is mainly the long list of items that still need to be accomplished and not the project itself. In the future he proposes that this will be a major intersection and serve the residents by providing them with what they need which was a design in the Huntersville 2040 Plan for this purpose. The goal is to protect a lot of the rural land but there will still be a need for the people to go somewhere. There is a concern about the applicants being good neighbors to the existing rural neighbors and conservation area.

C. Graffy commented that she is agreement of denial particularly due to the townhomes that do not appear to offer the transition that we are looking for between the development and the extremely rural area adjacent to this. During the 2040 Plan discussions the Activity Centers were described as identifying the general area and not the boundaries; however, this plan seems to pretty much ignore the Black Farm Road and Ramah Church Road rural designations which are very strongly worded in the 2040 Plan. Finally, she commented that it is not lost on her that the attention is highly focused on the greenway and adding back in Urban Open Space when what exists is open space, rural, cattle and horses along two rural roads that we are trying to protect.

C. Boyd asked staff if this is what was envisioned when this area was designated as an Activity Center because what is being proposed seems above and beyond an Activity Center and more like a Mixed-Use Center such as the next Birkdale. Staff responded that we see this as in keeping with the proposed use for this area, the two huge thoroughfares and the development approved over a decade ago. Additionally, the proposed development does begin the transition which will set the tone for possible future adjacent development that is already beginning to be discussed. C. Boyd followed up with two concerns, the precedent to do multiple projects because they are adjacent and the precedent for every Activity Center in Huntersville to match the size of this project.

The motion passed (7-2) with S. Hensley and F. Gammon opposed.

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

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit G and incorporated herein by reference. Staff reviewed the adjacent industrial uses and the Employment Center designation for this area. The proposal is to rezone this to the original Corporate Business with a Conditional District for warehouse and office use

just under 225,000 square feet. Text amendment TA21-10 allows for the buffer change that was requested so there is no modification needed for that.

Text amendment TA21-13 and mitigation approval will need to be approved to impact the SWIM buffer as proposed and mitigation will have to be discussed at the Planning Board meeting related to that item. This will affect only streams in PA2 watershed, the area furthest away from Mountain Island Lake and only draining under 50 acres so only near the end of the streams. Mecklenburg County water quality has reviewed the proposed text amendment and they are in support of it.

S. Swanick asked what happened with the previously approved plan and how will the parking facing the street will work out. Staff explained that the market simply did not support the previous plan and that the new text amendment allows the 80-foot buffer to be reduced to 40-feet but it will still be heavily landscaped and beyond that the building will face the street and parking is allowed.

F. Gammon made a Motion to Approve the rezoning petition R 21-11. The amendment is consistent with Article 11.4.7(d) of the Huntersville Zoning Ordinance, and as such is consistent with Huntersville 2040 Community Plan polices LU 1.1, LU 5.1, LU 7.1, and EV 1.2. Further, the amendment is consistent with Article 11.4.7(e) of the Huntersville Zoning Ordinance in that the property is located within a designated Employment Center, and the proposed rezoning is consistent with the overall character of development in the immediate vicinity. In fact, prior to being rezoned to Special Purpose-CD the property had previously been zoned Corporate Business-CD. It is reasonable and in the public interest to amend the Rezoning Plan because the rezoning is consistent with the envisioned uses and development pattern set forth in the 2040 Community Plan. In addition, the proposed development will expand the Huntersville economic base. This recommendation for approval is contingent upon: 1) Approval of "TA 21-13, Mountain Island Lake Buffer." 2) A Text Amendment which would allow impact of SWIM buffers within the Mountain Island Lake Protected Area 2 Overlay Zone, with required buffer mitigation being met. 3) Approval of Storm Water Drainage Systems Concept Plan. 4) Receipt of Charlotte Water Willingness to serve letter. 5) All outstanding redline comments are satisfactorily addressed with the staff. S. Hensley seconded the motion. The motion passed unanimously (9-0).

5. Other Business

5.A. Consider adopting the revised Rules of Procedure

J. Sny asked if Section 5, Item 3 is worded correctly and would already be on the agenda. J. Glass, Staff Attorney confirmed that the wording assumes that the item is not on the agenda and would need to be added.

S. Swanick made a Motion to Adopt the updated Rules of Procedure that have been workshopped and reviewed for the past few months. C. Graffy seconded the motion.

G. Baber asked if Section 5, Item 3 referring to 'all members' refers to a majority or literally all members. J. Glass responded that it does refer to a unanimous decision given that it is not on the agenda. S. Swanick commented that the cohesion of the Board would be expressed through unanimous decision and it could sway a Board from trying to add things at the last minute through majority.

The motion passed unanimously (9-0).

6. Adjourn

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

Exhibit A: Greg and Danna Whitman, 14730 Black Farms Road

September 28, 2021

Mr. Peete,

We are Greg and Danna Whitman we currently reside on 14730 Black Farms Road in Huntersville, NC and have for the past 27 years. We are writing to express our concern and ask for reconsideration of planned future growth with Magnolia Developers. We have seen so much growth in Huntersville in the past 27 years and the one thing we can all agree on is that the growth has come, and the infrastructure has not. Seems like Town has been more concerned with green spaces in parking lots, walkways and sidewalks that go nowhere. What no one seems to have is enough vision to address is school capacity and the traffic that comes with growth. New families come to Huntersville looking for what brought us to the area only to be frustrated with over crowded schools and to sit in endless traffic just trying to run to grocery store.

Black Farms road is a rural curvy road with no shoulders and blind spots for residents just trying to exit their driveways. Bikes ride this road frequently which increase the hazards of this road. This shopping and housing development having a plan for an entrance/exit on to Black Farms Road is a total nightmare. Black Farms exit onto Sam Furr Road is a right turn only and rightly so since this is major highway where traffic is traveling at 55 to 60 mph. It became one way after the tragic deaths of teenagers that pulled out in front of oncoming traffic. Black Farms also exits on the other end to McCord Road. So, traffic exiting from the development is either going right to only have to turn right on Sam Furr Rd or turn left and travel to McCord Road which will give access to Huntersville, which we all realize is the purpose of the exit. Thus, increasing the traffic on this curvy, rural country road with blind spots and bicycles.

We are asking that you please deny this zoning proposal for shopping and new residences for Magnolia Development with entrance/exit onto Black Farms Rd and study where all this incoming traffic will go, and the incoming kids have a seat in a school.

We appreciate your time and consideration,

Greg and Danna Whitman
14730 Black Farms Rd
Huntersville, NC 28078

Exhibit B: Adam Worland 15340 Black Farms Rd

David,

I live at 15340 Black Farms Rd. and I would like to provide feedback for planning consideration of the North Creek Village and phase 3 which includes a road attached to Black Farms Rd. and proposed houses. I have lived at this address for 3 years now and often when I tell locals i live on BF Rd., their response is, 'that's my favorite road in huntersville'. I am not against development but i think the houses and road (see attached circled area) are not good for Huntersville, the residents of Black Farms or the developers of North Creek Village.



There is no other 'strip of houses' street coming off of BF Rd. This would be uncharacteristic for the road and in general poor taste as most of the road is pasture / wooded area or large lot homes. Most recent developments or new houses are in 'cluster' i.e Blackwood Knoll or otherwise large property estate homes. Squeezing in homes where they could possibly fit would break up the character of the road.

The street has a bucolic character much like the Macaulay Rd. in Huntersville which is preserved. The Black family will celebrate their 200th year of the family farming and will be recognized by the state. Black Farms is frequented by cyclists and those out for a motorcycle or Sunday drive. Opening up a road would greatly increase traffic and turn the country setting into a commercial city street feel.

Being a suburb, we don't have established neighborhood streets like Queens Rd., in Charlotte. But we do have a few roads like Black Farms that offer a charming tour of our city and I think we would be wise to try to preserve its unique character.

Thank you for your time and consideration.

Adam Worland
15340 Black Farms Rd.
Huntersville, NC 28078
704 787-5487

David,

My last thoughts as this Phase 3 goes to planning tonight: I don't think the density of houses in the phase 3 proposed plan that align the street proposed to connect to Black Farms Rd. is uncharacteristic of the road. Huntersville is a suburb but we have the lake, and Davidson college etc. that make us different from suburbs like Mint Hill or Pineville. We are more than just a bedroom community outside of Charlotte. I think we should challenge ourselves to make aesthetically pleasing development planning as our town deserves it!.....

Thank you,

Adam Worland
704 7687-5487