

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**October 19, 2020 (Virtual)
6:00 p.m. – Hosted From Huntersville Town Hall**

PRE-MEETING

None

**REGULAR MEETING (VIRTUAL)
TOWN OF HUNTERSVILLE BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners (Virtual) was hosted at the Huntersville Town Hall at 6:00 p.m. on October 19, 2020.

GOVERNING BODY MEMBERS VIRTUALLY PRESENT: Mayor Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Commissioner Phillips and Nick Walsh.

Mayor Aneralla stated this meeting is being held both in person at the Huntersville Recreation Center on Verhoeff Road as well as livestreamed on Facebook Live. The Board of Commissioners are participating remotely. The public has been invited to attend and comment during the public comments or during any of the public hearings (1) in person at the Huntersville Recreation Center or (2) by telephonic communication in accordance with instructions sent to persons who have registered with the Town Clerk no later than 3 p.m. today. The public may also submit comments by e-mail to the Town Clerk at jpierson@huntersville.org.

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a moment of silence.

Mayor Aneralla led the Pledge of Allegiance.

Mayor Aneralla

- Colonial Pipeline was going to provide an update in the Pre-meeting, but the Board wanted also to be able to ask questions and they were not willing to do that at this time. Hopefully they will provide an update at the next meeting.
- Mayor's Luncheon is tomorrow.
- Next meeting of the Metropolitan Transit Commission is October 28.

Commissioner Bales

- Lake Norman Economic Development Corporation is currently working on 30 projects, 14 of which are in Huntersville.

Mayor Aneralla requested Commissioner Bales request that Ryan McDaniels provide update on where those projects are in the process.

Commissioner Boone

- Provided update on Lake Norman Chamber of Commerce events.
- Next virtual meeting of the Huntersville Ordinances Advisory Board is November 5.
- Huntersville Police Department is continuing to do their Podcast.
- Congratulated Lt. Brian Vaughan on his promotion to Captain.

Commissioner Hines

- Provided update from the Charlotte Regional Transportation Planning Organization. Next meeting is this Wednesday.

Commissioner Munger

- Reminded everyone that October is Breast Cancer Awareness month.
- Met with Cub Scout Pack 19 for a Q&A session last Monday.
- Attended the Centralina Regional Council Board of Delegates last week.
- Early voting started on October 15 and goes until October 31.
- Consider donating to local non-profits.

Commissioner Phillips

- Toured the Emergency Operation Center last week.
- Two of the North Mecklenburg early voting sites have had the highest turnout out of the 33 early voting sites.

Commissioner Walsh

- Provided update on upcoming Parks & Recreation meetings.
- Provided update from Visit Lake Norman.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Dr. Michael Brennan was scheduled to speak on Ocular/Melanoma/Columbia Genome Sequencing, but has having problems connecting to the meeting.

Commissioner Bales provided update on the LNEDEC projects. The Town is a finalist for one, we have three visits and ten first contacts.

While waiting for Dr. Brennan to establish connection to the meeting, the Mayor proceeded with other public speakers.

Jim Fletemier, 209 Hillcrest Drive, said I wanted to speak because I'm a little worried about a three-word catchphrase. Not a particular catchphrase, but the fact that this entire decision that's going to shape the very future of downtown Huntersville seems to be getting distilled down to who has the best three-word catchphrase. Are we "rooftops bring retail" or are we "save downtown Huntersville," or the one that's really got me terrified "it's just politics." I wanted to give you folks my own three-word catchphrase and that is simply this "why would you." Why would you call a development a Town Center development when 245' feet of it fronts Town Center and over 80 percent of the frontage is in this

single-family residential neighborhood or a mature forest, one of the last true mature deciduous forests inside Huntersville. Why would you call that the Town Center. Why would you push forward with a development, a rezoning, when in fact according to the words of the attorney of the developer herself, you don't need the rezoning in order to have the commercial and restaurant and retail that we all want downtown. Why would you take people who are against the wrong development and characterize them as people that are against development in order to overlook their views. Why would you potentially ignore the CMS report that said one school will be over 141 percent capacity if this goes through. Why would you ignore the traffic that goes by that intersection on a day-to-day and minute-by-minute basis and conveniently forget to realize that they're just not stopping because there's nothing there to make them stop and people do not stop for apartments. This has been really upsetting for me. I've lost a lot of sleep. But I have to say I feel better now because I realize that when that was my catchphrase "why would you," I realized that you wouldn't. I have more faith in you than that. We have more faith in you than that. And why would you view your constituents as an obstacle to overcome rather than a voice to listen to. I don't think you would. Why would you.

Rick Ranson, 214 Greenway Drive, said in a recent interview David Dupree characterized the critics of North State's plan for downtown development as whiskey bent and hell bound against any development and said that North State would simply state the facts and let the chips fall where they may. Facts are a very good beginning. I can't speak to Mr. Dupree's sobriety, but the fact is North State is the one who is clearly hell bound to develop this project. I understand the elementary math of monthly months that they make every month why they would be in favor of it. And it's obvious as why the Town planners are so hell bound to ignore the obvious problems with this project. First fact, the project violates the recommendations and the conclusions of the Town's 2030 Plan for downtown. That 2030 Plan clearly stipulates infrastructure should precede development of the downtown region. The plan states directly, unequivocally that the road should be built first, put in sufficient sewer, wastewater run-off provisions before putting in any development downtown. The fact is the North State proposal contradicts the details of the 2030 Plan, violates the spirit of what earlier elected leaders stressed. Second fact, this rezoning project before you is the most contentious and controversial since the I-77 toll fiasco a few years back. A lot of elected officials in the region successfully exploited the opposition to the tolls, turned it into a crusade, rode into office on the back of his voters' anger, a few of y'all. It was a movement. Save Davidson was a similar movement that changed the entire political leadership of the city. As astute politicians surely you realize the political aspect in this rezoning controversy. More than 2,500 residents from every neighborhood in Huntersville have signed this petition voicing their disagreement, displeasure and for many outright disgust. Citizens are aware, just as Brian Hines correctly noted in his brochure promoting this plan back in 2015/16, Gilead Road and Highway 115 are ground zero for the north end of the county. Petitioners against this project understand that putting an additional 300 or 400 cars at ground zero, it's not progress. People sitting in traffic are concerned about the quality of life, they are not whiskey bent or hell bound obstructionists against growth, neither are we. Barnyard language and accusations of developers running amuck was the most common response I heard when I canvassed about 300 homes in several neighborhoods. The sentiment against this whole entire project is [inaudible] and I strongly believe that the high voter turnout precincts, the proverbial yellow dog will get more votes than some council members that make more people this mad. Ridicule rhetoric aside, the attorney for North State at the last meeting said petitioners were ill informed, misinformed about the details of the project.....or dismissed even disingenuous remarks notwithstanding her claim is patently false. Fact, the petition is clearly written, strongly stated, leaves no room for doubt, debate, confusion or misunderstanding. Petitioners are educated professionals, a few doctors, PhD's, sophisticated world travelers. Their stone cold sober and they clearly smell what's being sold. It's a building and a parking lot. The architects work within the parameters of form and function

when they draw up their blueprints, but clearly North State are better salesmen than they are architects.

Lee Hallman, 100 Cambridge Road, said I'm addressing the development of downtown Town Center and the rezoning effort mostly. I see on the agenda tonight is the acceptance of the concept plan for North State. That's what we are addressing here. The acceptance of the North State concept plan in order to conclude due diligence and finalize the sale of the Town parcels would create a legal exposure for the Town. It will circumvent the due process of rezoning request review by accepting a plan that clearly does not comply with the current Zoning Ordinance. You will be rezoning by proxy. Lack of due process will expose the Town to litigation from the property owners affected by this spot zoning or it will obligate the Town to North State to deliver the rezoning needed to build out their concept plan. If the rezoning is not approved through the normal voting or appeal, the Town will be exposed to litigation by North State. A wiser and more cautious approach would be to ask North State to submit a concept plan that complies with the current zoning. This will allow the sale to close without the underlying implications and conflict. If you choose to proceed without caution, I would suggest taking the \$600,000 from the sale and reserving a liability on the Town's books. Chances are your final act as commissioners will be paying out Greenfield residents for damages caused by reckless spot zoning or compensating North State for undisclosed or misrepresented pre-existing conditions.

Amy Hallman, 100 Cambridge Road, said one thing I've learned from what I call my Huntersville 101 lessons in the last month is that balance and transparency is lost. I do appreciate the Mayor granting Lee and me the ability to pull resources and speak for 20 minutes two weeks ago and today. But the developer side got considerable more time, not counting all the discussions and plans made before the citizens even heard about North State at the October 5 public hearing. The developers were allowed literally a production, a video of key players staged as concerned citizens, a PowerPoint and an attorney who spoke for another hour. We the constituents were told no visual aids and we were allowed 3 minutes each in less than a desirable COVID set up to be heard off site. The day after that public hearing, the house at 121 Gilead Road which is within 250' of this project and listed within the rezoning notes, is under contract with one of the commissioners now, and to the best of my knowledge this has not been publicly disclosed. Just last week and at the latest concept plan, the one you are voting on tonight, there's a property on Gilead Road that has been absorbed without it being addressed at all and that house still stands along the Gilead frontage as of today and it is not under contract with anyone else. How can you accept a concept plan that absorbs a house they don't own and don't have a contract for. Also, I know that property owners whose property touches the plan have been approached to sign a document to say they are okay with this clearing of wooded acres and I know that those property owners have not signed it. I know the Board was presented a beautiful retail development plan that encompasses Guignard Gardens and property along 115 and Gilead and back to Main Street. Most of the Board liked this plan, but instead of encouraging this development plan, it was squashed. The public was never told about it and to the best of my knowledge this sudden urgency to bring the North State retail plan to save our downtown rings disingenuous. It seems a conflict of interest to push this apartment and townhouse development plan and call 12,000 sq. ft. a retail renaissance when each of you know an actual retail development plan made more sense. If it's truly public/private partnerships you dislike, here's two things. You could have introduced the same private funding source that North State got and two, we will be searching for candidates who are interested in public/private partnerships because they're listed in those 2030 and 2040 Community Plans. The summary and analysis of my education into Huntersville development is that listening to constituents rather than developers needs improvement because right now we are being ignored.

Elaine Kerns, 301 Hillcrest Drive, said in the 2030 Plan under the Economic and Commercial Development section there's some guiding principles to be considered when the Town is evaluating a rezoning request for mixed-use development. It's on Page 88 and it reads rezoning should not occur until the infrastructure is available to support the mixed-use. It is not intended for rezoning to be speculative, but instead occur to serve an existing need. So the infrastructure, I'm not really going to talk about that other than to say I think we have some very legitimate concerns about our roads, flooding and sewer issues that are not being heard and not being addressed, that should be addressed before any future development occurs. Speculative – that's self-explanatory. This is speculative. But does the rezoning serve an existing need. Let's look at the 6 acres in Greenfield Park that's currently zoned General Residential. The only thing that North State wants to put there are blocks of townhouses, an impervious parking lot and seven detached single-family homes on 1/8 acre lots which is insanely disproportionate to the average lot size in our neighborhood. Is there an existing need for more housing in the downtown area. No. There is a plethora of current and proposed housing options in this area. No one is asking for more housing here and certainly not for townhomes. In the 2040 Plan there was a survey done asking people if they moved to Huntersville what type of housing would they be interested in. I don't know if I'm on camera or not, but I'm holding up a survey that says 4 percent would be interested in apartments, 22 percent would be interested in townhomes, but the overwhelming majority 61 percent would be interested in single-family houses with a big yard. This does not exactly meet the need for more housing here and housing of this type. It doesn't meet the need for affordable housing because this is not intended to be an affordable housing plan. To make such a huge zoning change from General Residential to Town Center mixed-use, I think there should be a compelling reason. It's not like North State is proposing a municipal building or something else that would serve the greater good and bring in unique quality to our downtown. Townhomes, don't do this. The only existing need rather or desire is the developers wish to maximize its profits. That's it. And at the expense of our neighborhood and its citizens. The unsettling thing is that this rezoning appears to be a foregone conclusion and the decision seems to have been made before the due process is complete. It makes me wonder what's going on here and who's behold to who. It feels like the council and even the Planning Department appears to be behold to the developer. To approve a plan that helps the developer maximize its profits against the will of so many people who will be injured by this. This just doesn't feel right.

Mayor Aneralla recognized Dr. Michael Brennan who had established connection.

Dr. Michael Brennan provided update on ocular melanoma/Columbia genome sequencing.

AGENDA CHANGES

Commissioner Boone made a motion to adopt the agenda.

Commissioner Walsh seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve

Commissioner Walsh – Approve

PUBLIC HEARINGS

Mayor Aneralla recognized Planning Board members present virtually or at the Huntersville Recreation Center: Catherine Graffy was present at the Huntersville Recreation Center.

Mayor Aneralla called to order public hearing to receive public comments on the 2040 Community Plan.

Mayor Aneralla expressed appreciation to the Steering Committee, Planning Board and staff for keeping this on track despite the COVID pandemic.

Dave Hill reviewed the presented an overview of the process for the 2040 Community Plan. *PowerPoint presentation attached hereto as Exhibit No. 1.*

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

OTHER BUSINESS

Petition #TA20-01. Petition #TA20-01 is a request by the Huntersville Planning Board to amend Articles 7.2, 7.4, and 12 of the Huntersville Zoning Ordinance to require plantings from the Huntersville Approved Species List, to increase the amount of tree save mitigation required, and to lower the caliper of a specimen tree to 18”.

Brad Priest, Principal Planner, entered the Staff Report into the record. *Staff Report and PowerPoint attached hereto as Exhibit No. 2.*

The Planning Board considered the application at its September 22, 2020 meeting. At the meeting it was noted by staff that on September 17, 2020, the Tree Committee met again to review the text amendment Staff Report and the discussion from the last Huntersville Ordinances Advisory Board meeting. At the Tree Committee meeting on the 22nd, the Committee updated their recommendation to allow no required buffer trees to count for mitigation. At the Planning Board meeting, the Board agreed with the committee that in order to effectively encourage mature tree save, the mitigation amount needed to be considerable. They also agreed that allowing buffer trees to “double dip” as mitigation trees diluted the mitigation requirement. This in turn encouraged mitigation rather than mature tree save.

The Planning Board also specifically discussed the definition and size of the specimen tree. After Board discussion with staff, the consensus of the Planning Board thought that while 18” caliper trees were worthy of saving, keeping the requirement at 24” was more of a reasonable compromise on the amount of potential mitigation costs required.

After Planning Board discussion, they unanimously recommended that:

- Landscaping be required from the approved tree and shrub list.
- 100% of the caliper trees to be mitigated over the ordinance requirement.
- No buffer trees be permitted to count as mitigation.
- The definition of a specimen tree remain at 24” or greater for large maturing trees.

Commissioner Boone made a motion in considering the proposed amendment Petition #TA20-01 to amend Article 7.2.1 and Article 7.2.2 of the Huntersville Zoning Ordinance, the Town Board recommends approval of the text amendment to do the following as recommended by staff and the Planning Board:

- Required plantings from Huntersville Approved Tree and Shrub List or as recommended by staff.
- Amend specimen tree mitigation to 100 percent of the mitigated species caliper.
- Allow no buffer planting to count as mitigated trees.
- Keep the definition of specimen trees to 24" in caliper for large maturing trees.
- No changes to Article 12.

This amendment is consistent with Section E-1 and E-3 of the 2030 Huntersville Community Plan. It is reasonable and in the public interest to amend because it increases the mitigation requirements encouraging additional tree preservation which provides distinct aesthetic, economic and environmental significance and value as a natural resource of the Town.

Commissioner Walsh seconded motion.

Commissioner Bales said I just wanted to clarify because Commissioner Boone kind of broke up for just a second, that in his motion it said zero percent of required mitigation trees counted toward buffer plantings.

Commissioner Boone said I'll just go ahead and re-read it.....allow no buffer planting to count as mitigated trees.

Commissioner Hines said I support this motion, but one thing I would like to request from the Huntersville Ordinances Advisory Board is to review who approves the mitigation. Currently right now the Planning Board looks at it. This is something that staff possibly could do administratively since the rules are in place, it's a cut and dry thing. I would like the HOAB to review who approves mitigation.

Commissioner Boone said I think Commissioner Hines is right. It's probably another 30 to 45 days for this whole process to take as far as who selects the tree.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Deny
Commissioner Walsh – Approve

Petition #TA20-02. Petition #TA20-02 is a request by the Huntersville Planning Board to amend Article 11.4.7(b) of the Huntersville Zoning Ordinance to allow the Planning Board to have control of one deferral with or without applicant consent.

Lauren Speight, Planner I, entered the Staff Report into the record. *Staff Report and PowerPoint attached hereto as Exhibit No. 3.* Since the public hearing language was added that the Planning Board

state the reason for the deferral and it be related to address ordinance standards if the Planning Board chooses to defer action on a request one additional time. The Planning Board recommended approval during the September Planning Board meeting for this text amendment.

Commissioner Walsh made a motion in considering the proposed amendment #TA20-02 to amend Article 11.4.7(b) of the Huntersville Zoning Ordinance, the Town Board approves based on the amendment being consistent with Police ED-14 of the Huntersville 2030 Community Plan. It is reasonable and in the public interest to approve the amendment because the proposed amendment allowing one deferral by the Planning Board without the applicant's consent would provide time for plan adjustments by the applicant to avoid the Planning Board taking action on a plan with numerous conditions or recommending denial because there are may deficiencies in the plan. Further, the ordinance maintains a limit of no more than two deferrals. Efficiency of the development process depends upon the review of completed plans and studies prior to the board review and approval.

Commissioner Boone seconded motion.

Mayor Aneralla called for the roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Petition #TA20-07. Petition #TA20-07 is a request by The Barnes Real Estate Co., LLC to amend Article 3.2.7 (D)(4) of the Huntersville Zoning Ordinance of the Huntersville Zoning Ordinance to allow 100 percent attached houses in the Highway Commercial zoning district on one lot or a combination of lots that are less than or equal to 3 acres net of any SWIM buffer. The maximum density is proposed to be limited to 10 units per acre net of any SWIM Buffer and Building Lot Types would comply with Article 4: Attached House.

Commissioner Phillips noted she needed to recuse herself because her family could potentially be impacted.

Commissioner Boone made a motion to recuse Commissioner Phillips.

Commissioner Bales seconded motion.

Mayor Aneralla called for the roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Walsh – Approve

Lauren Speight, Planner I, entered the Staff Report into the record. *Staff Report and PowerPoint attached hereto as Exhibit No. 4.* One change since the public hearing is the addition that if properties were to develop under the proposed ordinance, that adjoining properties shall not subsequently develop in this manner.

The Planning Board recommended denial of the text amendment request during the September 2020 Planning Board meeting. Staff also recommends denial of the request.

Commissioner Bales made a motion in considering the proposed amendment #TA20-07 to amend Article 3.2.7.(D)(4) of the Huntersville Zoning Ordinance, the Town Board recommends denial based on the amendment being inconsistent with Policies H-2, H-3, H-4 and CD-3, in that the proposed amendment would not require the attached housing be a part of a mixed-use development as provided in Article 3.2.7(D)(4). It is reasonable and in the public interest to deny the amendment because the Zoning Ordinance already allows more than 30 percent attached houses in mixed-use major subdivision developments and on individual lots with one builder. Further, the Town is in the process of preparing the 2040 Plan that will take a more comprehensive view of addressing affordable housing and infill development in light of other community goals.

Commissioner Hines seconded motion.

Mayor Aneralla called for the roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Walsh – Approve

Commissioner Boone made a motion to bring Commissioner Phillips back.

Commissioner Hines seconded motion.

Mayor Aneralla called for the roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Walsh – Approve

North State Conceptual Plan. Mayor Aneralla requested the Town Attorney review why we are going through this process and address some of the things we have heard tonight, in particular spot zoning.

Commissioner Hines disclosed since our last meeting I have placed 121 Gilead Road (corner of Gilead Road and Hillcrest Street) under contract to convert from a residential use to a professional office property. Commissioner Hines asked the Town Attorney if she thought there was any conflict in him participating in discussion vote of the North State Conceptual Plan.

Emily Sloop, Town Attorney, said I want to differentiate between voting on a conceptual plan and voting on a zoning amendment or text amendment. Statute 160A-381 prohibits a commissioner from voting on a zoning map or text amendment when the vote is reasonably likely to have a direct substantial and readily identifiable financial impact on the member. Right now, you are not voting on a zoning map or text amendment. Also, as far as the readily identifiable financial impact, anything that has been deemed remote or speculative in nature has been found by case law not to be direct substantial and readily identifiable. Right now, you don't have a property interest.

Commissioner Hines said as I mentioned the last time, if the Board has any other position, I'll do what the Board says. Otherwise, I'll go on the advice of counsel.

There were no objections.

Ms. Sloop explained spot zoning is zoning in a relatively small area, usually owned by a single person. It's going to be different from the surrounding property. In North Carolina if you want to zone something that is relatively small and that would be typically described as spot zoning, you have to have the burden showing that you are making a reasonable zoning decision. It cannot be arbitrary or capricious. The *Chrismon v. Guilford County* case set out various factors in considering when making a decision about spot zoning. They are looking at the size of the tract in question, compatibility of the disputed zoning action with an existing comprehensive zoning plan, benefits and detriments resulting from zoning action for the owner of the newly zoned property, neighbors in surrounding communities and also the relationship between uses and vision under the new zoning as uses currently present in the adjacent tracts. I believe that our Planning staff has already addressed some of these factors in terms of the compatibility of the comprehensive zoning plan and also any type of relationship between the envisioned use of the new zoning and the currently present use. The Planning Director had sent out some comments about the use being very similarly situated and the zoning also being similarly situated, so I don't see a problem with spot zoning in this instance.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report and PowerPoint attached hereto as Exhibit No. 5.* The plan that you see before you is the concept plan that was approved by the Town Board November 18, 2019. The Town of Huntersville owns this "L" shaped piece of property and they opened up offers to purchase. North State had put in an offer to purchase. Following all the processes that the state outlines to sell property, a purchase agreement was established. The purchase agreement said that the Town Board had to approve a conceptual plan for the development and so that is what you are seeing here is that conceptual plan for the development that was part of the purchase agreement. The purchase agreement also went on to say that this concept plan in no way, shape or form has any impact on any rezoning that's required by the ordinance and, of course, there is a rezoning. What we are dealing with here is just the Town-owned piece of property and the Town Board's consideration of a conceptual plan by North State.

This was the original plan presented and approved by the Town Board on November 18. North State acquired additional lands and have some other lands under contract and as a result of that they modified their plan and this building footprint changed and therefore, because it's different than the November 18, 2019 plan, it requires the Town Board to approve this new plan. I want to be clear that this concept plan has no relationship to the rezoning. That is a separate issue and is not part of the concept plan and as I mentioned, the purchase contract says that this concept plan does not dissolve anybody from going through the rezoning process.

Having said that, I wanted to just show you more detail of the proposed plan. What you see in red is the Town-owned property. You can see the outline of the building. This is basically the first-floor level, so what you see in gray here is non-residential area which represents about 34 percent. The Town Board was in agreement that this area in gray should not include a leasing office or a work-out space and so this new plan has a leasing area right over in this quadrant here and then the work-out area amenity area is at the very back of the building on the street that's right across from the parking deck. This is the layout that they are proposing. You will notice a street that goes through here. I'm going to show you now the elevations that are a part of the package and so this first elevation that you see is the elevation that is on Gilead Road, so facing Gilead Road and what you have is all commercial here on the first floor. The first floor is extra tall, it's just under 20' tall, and then you have the three-story residential units. That's facing Gilead Road. This is the side street that's facing the parking deck that is also represented as commercial. The leasing office is where my cursor is and then you will notice there's a two-story drive under that leads you to the parking lot, so that people that are on Gilead Road and want to get into either their residence or to the business here, can come in and this driveway is right across from the Town Center driveway into the parking deck, so for orientation purposes. Down here at the far end of the development is the amenity area where you might have the work-out space, etc.

Commissioner Walsh asked in selling this property to this developer, was there anybody else interested in buying the property.

Mr. Simoneau said the bid process was published for upset bids and nobody submitted an upset bid.

Commissioner Walsh said could you just briefly explain what an upset bid is.

Emily Sloop, Town Attorney, explained it's a process where we advertise for upset bids, including an original bid amount, and then we allow bidders to upset the original bid amount by at least 10 percent. It's a procedure that you follow that you have to put in the formal advertisement and also wait for the bids to come in, usually set a specific end period and then go forward from there. And I will also reiterate that I did review the contract language in the negotiated offer and it clearly states there that this vote on a conceptual site plan does not absolve any type of additional approval required by law or ordinance including the Town Zoning Ordinance.

Commissioner Munger said at the last neighborhood meeting, the presentation they put together, essentially at the time they knew there was going to be a lot of changes coming and what we ended up telling some of the residents was "but wait, there's going to be a much better plan." Will there be an additional neighborhood meeting so that they can review this and look it over.

Mr. Simoneau said the applicants are online. Bottomline is it's not required to have another neighborhood meeting. You had the public hearing, you had a neighborhood meeting required by the ordinance, and there would not be another neighborhood meeting unless the applicants want to do it on their own, but it's not required. They will be making the plan official once the Town Board decides on this. They didn't want to make it the official plan, which when I'm saying the official plan, I'm talking about this right here. They didn't want this to be the official plan until they understood what the Town Board would accept on this parcel and if the Town Board does accept that, then that would be the official plan update and we would put that on our website and make it available for everyone that wants to see it.

Commissioner Munger said there was an issue in the previous plan with access to the BMP. It sounded like there was going to be a mailbox put in front of it. Did they address that at all.

Mr. Simoneau said I'm not in a position to talk about that, because I'm afraid it's going to cloud this issue of the concept plan, because what we see dashed in red is really the only thing that's for you tonight.

Commissioner Munger would a UPS-like truck be able to drive under that two-story access area.

Mr. Simoneau said the applicants are on and available to answer, but the story is it's the exact same size as what we've got across the street in Town Center and we have school buses and delivery vehicles, all kinds of vehicles, go through that.

Commissioner Bales said I just want to confirm that the concept plan tonight has no bearing on the rezoning of the rest of the property.

Mr. Simoneau said that's correct. This rezoning is a separate issue, and it's also stated in the sales contract, so this in no way, shape or form obligates any actions from the Town Board on the rezoning.

Commissioner Bales said if this concept is approved but the rezoning does not happen, how does that affect this concept drawing. Would they have to come back to the Board.

Mr. Simoneau said if they want to purchase this property from the Town and the footprint is going to be different than what you see here and the elevations are going to be different than what you see here, then the answer is they would need to come back to the Town Board for approval because the sale of this property and the way the contract agreement was set up was the Town Board has to give concept approval, understanding it's not going to have every "i" dotted and every "t" crossed. It's a concept plan, a general plan. To answer your question, if the land that they want to still purchase from the Town of Huntersville is going to contain a building different than what you see in this drawing here, then yes they would need to go back to the Town Board for approval of the concept plan and I would dare say it might even have to require a new contract given time constraints.

Ms. Sloop said that's exactly right. The second page of the negotiated offer states that it would have to continue to go back and be approved by the Board. Any Board approval would need to be made on their request for modification, so it's directly in the contract that this does not affect any zoning decisions whatsoever and that an agreed upon concept plan is required.

Commissioner Bales said understanding that this is a concept plan, and I'm changing gears a little bit in regards to parking, but if what I see here as site data, not to exceed 138 units, then 144 spaces, 22 spaces with on-street parking, I know they have to meet our parking ordinance and we don't know at this point if this concept actually meets that code, correct.

Mr. Simoneau said right, because it's not clear how many 1-bedroom and 2-bedrooms plus units there are and parking is based on that. The bottomline is the concept is approved, the property is rezoned, it's on the condition that whatever they build here they have to meet the parking standards and if they can't meet the parking standards, then they will have to modify their plan i.e. cut back on some units or maybe go with more 1-bedroom units to comply with the Town ordinance. The only other thing I wanted to say is this area here represents 34 percent of the floor area, not 50 percent of the floor area.

Staff was okay with that because the commercial along this sidestreet facing the parking deck is not prime commercial area. Again, the leasing office is outside the gray area and the amenity/work-out space is also in the back of this building. If this property had more frontage on Gilead, then we'd be talking the other way that we might want more than 50 percent commercial. Given the shape of this property, given that this A street is not a prime commercial street, staff is comfortable with this layout.

Commissioner Bales said what is planned directly behind the leasing area there.

Mr. Simoneau said it just conceptually shows a couple of units right here. It could also be centralized place where packages, maybe there's some trash. The applicants have indicated they would like to see a restaurant right in there, which might need some additional trash area, so it's conceptual at this point in time as to what that will be, but it could be anywhere from a parcel pick up to trash or restaurant or maybe even some units.

Commissioner Bales asked what is that rectangular piece under non-residential.

Mr. Simoneau said I believe that's an upper story stairwell, but I'll defer to the applicant.

Susan Irvin, for the applicant, said that's correct, that is a stairwell.

Mr. Simoneau said what you don't see in here is kind of a walk-through. Is that walk-through going to be provided or since this is open there's not going to be a walk-through here.

Ms. Irvin said at this point we are anticipating putting the walk through. It would really line up kind of with that sidewalk.

Mr. Simoneau said this is a walk-through area that people that park in the parking lot can get to the retail/restaurants easily and also this covered walkway could have seating, get people out of the rain, get them in the shade, etc.

Commissioner Hines said this plan has evolved and changed numerous times since 2019. Originally the Town property was the only thing that we were looking at, so everything had to be on-site, all parking and I'm assuming storm water and things like that. If the conceptual plan is approved but the rezoning is not approved, would they have to come back and modify the plan to require all parking to be on the Town property as well as storm water.

Mr. Simoneau said if the conditional rezoning plan is denied, it is likely that the footprint of this building would change. I don't know for sure, but if it's going to be a standalone lot there's no question that the whole site plan has to change because there's got to be parking and storm water provided on that site, but I believe if the conditional rezoning is changed, that it's possible this footprint could be modified. If it doesn't get modified and they come up with another development plan and ask for a rezoning, then it doesn't necessarily have to come back to you. It's just that if this floorplan and this conceptual elevation change, then it will need to go back to the Town Board for approval.

Mayor Aneralla said how long have you been working in Huntersville.

Mr. Simoneau said a little over 20 years.

Mayor Aneralla said obviously we don't know all the details, but conceptually is this something the Town has been planning for and all the different downtown plans have been calling for, something like this type of development.

Mr. Simoneau said yes, again not getting into the specifics, but to have mixed-use buildings activate the commercial street fronts, which is Gilead/115/Main Street, and having a mixture of housing types, that is correct.

Commissioner Munger asked would the applicant consider hosting another neighborhood meeting prior to our final vote.

Ms. Irvin said we've actually already had two community meetings and the public hearing was continued in order to allow public review and comment, so I would have to discuss it further with my clients. I really feel at this point we've had two community meetings instead of one and we are having two public hearings, as well as probably two Planning Board meetings. I'll get back to you, but I want to say that my feeling on it is that having another community meeting at this point doesn't do more than having the public hearing, but I'll have to discuss it with my clients.

Commissioner Munger said from my perspective, this would be the first time the community actually had a chance to see this specific plan and how it's set up.

Ms. Irvin said I think that's something that we should discuss further. I hear what you are saying, I just feel like the same comments will be made at the community meeting as would be made at the public hearing.

Commissioner Bales asked are you referencing this concept of the Town property or the project in its totality.

Commissioner Munger said it's hard kind of to define the whole thing. I'm talking about probably the project as a whole, and I know we're kind of just looking at this concept plan, but I would want the public to be able to see the project as a whole. I want them to see the houses on Greenway instead of townhomes, I want them to see everything that's happening along this building, the BMP and how that's accessed. I want the whole thing to be given to the residents to be able to look at it and understand everything and all the changes that were put into effect and honestly, it's a little bit of making sure that residents understand, but also that we made a lot of changes. We made a lot of progress to get the things from the feedback we heard, increasing the amount of commercial space, making that pass through, making houses instead of townhomes on Greenway. I want people to understand this was a much more improved plan and I understand some people won't necessarily agree with it, but I feel like if they have all of the information they'll be able to understand exactly where we are and how we've progressed.

Commissioner Bales said as we look at this concept drawing of the Town parcel, is there still the potential for additional changes in regards to the rezoning of the rest of the project. I'm trying to keep them separate. I'm trying to talk separately about each one. Is there still an opportunity to make the necessary changes and tweaks to the rezoning as a whole.

Mr. Simoneau said we're putting aside the concept plan and everything you are seeing in red and the question is there opportunity to make changes to the big rezoning and the answer to that is yes,

basically up to the night of the decision. If that is your question, can there be modifications on the rezoning, the answer is yes, there can be modifications on the rezoning up to the final decision.

Commissioner Walsh made a motion to approve the North State Development Conceptual plan.

Commissioner Bales seconded motion.

Commissioner Munger said I'm thinking of putting a substitute motion in there to place a contingency that an additional neighborhood meeting be put together and then overall we approve the conceptual plan with that contingency.

Ms. Sloop said the requirement for another community meeting is not in the negotiated agreement, so I would not advise that.

Commissioner Phillips asked is there any way to make a substitute motion to defer this until November 2, so that the citizens can have input on this conceptual plan.

Mayor Aneralla said they are going to be able to address the concerns of these comments on November at the public hearing.

Commissioner Phillips said we are already approving a concept plan, so it's like we're not really listening to our constituents is what it feels like to me.

Mr. Simoneau said just so I'm clear, the request I'm hearing is could the concept plan be continued until the November meeting, and that is a choice of the Town Board. That is totally up to you. I would just simply say that the contract, as it was written, specifically says that this concept plan in no way, shape or form obligates the Town Board for the decision on the conditional rezoning. Again, it's totally up to the Town Board how you want to do it, whether you want to approve the concept plan or whether you want to defer it until after the public hearing is closed.

Mr. Roberts said the one thing I would say, too, keep in mind regardless of what the Board does, the December 14 date where we extended the contract. Hopefully you will consider extending it because it may bump up against that wall if that's something you decide to do.

Commissioner Phillips said I'm making an official substitute motion to defer until the November 2 meeting.

Commissioner Munger seconded motion.

Commissioner Bales asked what are you looking for as an outcome in deferring for two weeks.

Commissioner Phillips said citizen input. This feels like a slap in the face to the people I have spoken to, because here's a concept that we are supposed to approve so it would be nice to have the neighbors in the surrounding areas give their input in what they could live with because there may be people who think this is okay. I want to give everyone a chance to have a say because what's waiting a few more weeks when you're making plan that are going to impact our town for like 100+ years.

Mayor Aneralla called for the roll call vote on the amended motion to defer decision to November 2.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Deny

Public Art Piece – Icehouse Reimagined. The Public Art Commission has made a recommendation to the Town Board to move forward with the design for the public art piece – Icehouse Reimagined by artist William Tewell. This piece will be located between the Ice House Stage and the sidewalk on Maxwell Avenue. *Rendering of art piece attached hereto as Exhibit No. 6.*

April Dunn, Public Art Commission, explained that the Olde Huntersville Historical Society saved the bricks from the icehouse that was located on the Veterans Park property. Artist William Tewell has come up with an imaginative design to incorporate those bricks into an art piece using translucent concrete. The art piece will be located beside the Ice House Stage. It will be funded with the \$5,000 grant that ASC provided for Hello Huntersville that was not used this summer.

Commissioner Walsh made a motion to approve the design of the public art piece Ice House Reimagined.

Commissioner Bales seconded motion.

Mayor Aneralla called for the roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

CONSENT AGENDA

Commissioner Hines made a motion to approve the Consent Agenda. Commissioner Munger seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

The following items on the Consent Agenda were approved:

1. Minutes of the September 21, 2020 Regular Town Board Meeting.
2. Resolution approving clearing contract for Phase 1 of the Downtown Greenway Project. *Resolution attached hereto as Exhibit No. 7.*
3. Resolution to accept the Stumptown Extension Environmental Assessment Contract. *Resolution attached hereto as Exhibit No. 8.*
4. Resolution to Adopt Mecklenburg County Multi-Jurisdictional Hazard Mitigation Plan and agree to take such other official action as may be reasonable to carry out the proposed actions of the Plan. *Resolution attached hereto as Exhibit No. 9.*
5. Budget amendment appropriating Insurance Proceeds of \$22,317.18 to the Huntersville Volunteer Fire Department account due to a sprinkler malfunction causing water damage at the Fire Station on McIlwaine Road.

CLOSING COMMENTS

Mayor Aneralla reiterated his desire for the Board to meet in public.

There being no further business, the meeting was adjourned.

Approved this the 17th day of May 2021.