



AGENDA

Regular Town Board Meeting

March 7, 2022 - 6:00 PM

TOWN HALL (101 Huntersville-Concord Road)

1. Pre-meeting - 4:30 p.m.

1.A. Discuss Various Retreat Topics Item Nos. 9, 10, 11, 13, 16, 17, 18 and 26. *(Anthony Roberts)*

2. Call to Order

3. Invocation - Moment of Silence

4. Pledge of Allegiance

5. Staff Questions

6. Public Comments, Requests, or Presentations

6.A. Rural Hill/Loch Norman Games *(Jessica Bustamante)*

7. Agenda Changes/Adoption of Agenda

8. Consent Agenda

8.A. Approve the minutes of the February 7, 2022 Regular Town Board Meeting. *(Janet Pierson)*

8.B. Call a public hearing for Monday, April 4, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #S22-01 Birkdale Landing Special Sign District, a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Pkwy, Tax Parcel 00917184. *(Kayleigh Mielenz)*

8.C. Call a public hearing for Monday, April 4, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #TA22-03 Clear Sight Triangle at Street Intersection ordinance revision, a

request by Town of Huntersville staff to amend articles 8.9.1 and 12.2.2 to comply with State House Bill 489 language. (*Nathan Farber*)

- 8.D. Call a public hearing for Monday, April 4, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #TA22-04 Solar Energy Facilities ordinance, a request by the Town of Huntersville Staff to amend article 9.54 to remove the special use permit requirements from Minor solar energy facilities and to bring language into compliance with 160D-914. (*Nathan Farber*)

9. Public Hearings

- 9.A. Conduct public hearing on Petition #TA22-01, a request by the Town of Huntersville Planning Department to amend Articles 11.4.3(a), 11.4.9, and 12.2.1 of the Zoning Ordinance to clarify the Down-Zoning definition and initiation of the process. (*Kayleigh Mielenz*)
- 9.B. Conduct public hearing on Petition #TA21-15, a request by the Town of Huntersville Planning Department to amend Zoning Ordinance Articles 8.7, 12.2.1, 4, 7.10, and 7.11 to allow and place standards for Rooftop Amenity Spaces to exceed the maximum building height. (*Jack Simoneau*)
- 9.C. Conduct public hearing on Petition #R21-17, a request by HFH Partners, LLC to rezone (+/- 3.8 acres) 202, 204, 206, 208 Gilead Rd from Neighborhood Residential District to Traditional Neighborhood Development Urban Conditional District for a mixed-use development (Parcel #s 01712112, 01712111, 01712110, 01712109). (*Brian Richards*)
- 9.D. Conduct public hearing on Petition #TA 22-02, a Zoning Ordinance text amendment by the Huntersville Town Board affecting the Neighborhood Residential, Neighborhood Commercial, Town Center and Highway Commercial zoning districts by removing the ability to exceed 30 percent attached houses (row house, townhouse or duplex), apartment buildings and mixed-use buildings (commercial & residential in one multi-story building) in major subdivisions located within ¼ mile of designated rail transit stations (3.2.4(d)(4), 3.2.6(d)(4), 3.2.5(d)(4), 3.2.7(d)(4)(a)). (*Jack Simoneau*)

10. Other Business

11. Mayor and Commissioner Reports/Closing Comments

12. Closed Session

- 12.A. Closed session pursuant to N.C.G.S. 143-318.11(a)(3) to give instructions on N.C. Utilities Commission Docket No. ES-165 SUB 0 In the Matter of Petition of Reynolds Consumer Products, Inc. for Reassignment of Electric Service Territory.

13. Adjourn

Special Accommodations: Anyone needing special accommodations when attending this meeting and/or if this information is needed in an alternative format please contact the Town Clerk. The Clerk can be reached by phone or fax: 704-875-6541, email: clerk@huntersville.org or at 101 Huntersville-Concord Rd, Huntersville, NC 28078. We request at least 72-hours' notice prior to the meeting to make the appropriate arrangements.

The Board reserves the right to deviate from the agenda.

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Anthony Roberts

Date: March 7, 2022

Subject: Discuss Various Retreat Topics

EXPLAIN REQUEST:

Discuss Various Retreat Topics Item Nos. 9, 10, 11, 13, 16, 17, 18 and 26.

ACTION RECOMMENDED:

Discussion

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. 2022 Various Retreat Topics

VARIOUS RETREAT TOPICS

1. Open check book Ordinance/resolution
2. Discuss / Stream all 3 on 3 meetings
3. Return previous bylaws to the following appointed committees, allowing both chairs of the committee to be involved in any revisions needed and made, with each prospective committee voting on the bylaws (Ordinance Advisory Board & Board of Adjustment)
4. Create a police review board for officers to have the opportunity to have a disciplinary action reviewed
5. Change zoning requirements from 250 feet to ½ mile, with bigger signs 4' x 6', social media ads and ads in local paper
6. Vehicles using GPS, broken down by department
7. Closed session meetings—detailed minutes
8. Discuss CMS policy about schools in Huntersville, CMS Rubric, and Town's charter school options
9. Breakout all contract services individually for the upcoming budget workshops
10. Reduce Town Manager spending to 25K from 150K
11. Establishing Huntersville's identity as a community
12. Creation of legislative agenda (magistrate, ocular melanoma)
13. Affordable/workforce Housing in Huntersville, considering comprehensive neighborhood improvement program - CNIP
14. Pass a Non-Discrimination Ordinance
15. Find a way to specifically recognize the Pottstown Community
16. Consider dividing commissioner seats into 4 districts and 2 at large
17. Consider revising the pay scale for Mayor and Commissioners
18. Review the language on whether a citizen can serve on multiple committees and discuss applications for boards and committees
19. Huntersville has a lot of historical landmarks which signage of recognition in these various locations and communities can be funded
20. Consider establishing Top Deck Huntersville
21. Have HFFA Oversight Committee review contracts with swim teams
22. Update funding for nonprofits
23. Development of Town app & related costs to push out notifications, events, waste management, surveys, etc—increasing accessibility
24. Provide American sign language interpreters for board meetings and events
25. Discuss Town participation in NC League of Municipalities
26. Social districts
27. Noise ordinance
28. Lighting ordinance
29. Emails as public comment

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board
From: Janet Pierson
Date: March 7, 2022
Subject: Approval of Minutes

EXPLAIN REQUEST:

Consider approving the minutes of the February 7, 2022 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve Minutes

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Draft Minutes

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING (VIRTUAL)
MINUTES**

**February 7, 2022 – 6:00 PM
HOSTED FROM TOWN HALL (101 Huntersville-Concord Road)**

PRE-MEETING

The Huntersville Board of Commissioners held a Pre-meeting (Virtual) hosted at Huntersville Town Hall, 101 Huntersville-Concord Road, at 5:15 p.m. on February 7, 2022.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the pre-meeting to order.

Social Districts Presentation. Mike Lant, North American Properties, was scheduled to present a PowerPoint on Birkdale Village's request that the Town of Huntersville consider creating a Social District pursuant to Session Law 2021-150, House Bill 890, however he was unable to establish a connection to the meeting. Anthony Roberts, Town Manager, briefly reviewed Mr. Lant's PowerPoint. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

Emily Sloop, Town Attorney, said my understanding as of the last time I checked was that Kannapolis is the only town that has currently adopted an ordinance regarding the Social Districts. Again, this is a new statutory grant of authority, so there's little to go by out there. We would be responsible for creating an ordinance if we were to go down this path. We would also have to revise some of our current ordinances regarding not having open containers in public streets for instance and carve out an exception for the Social Districts. We would also have to negotiate and enter into a management plan with the owners and the participants within the Social District, and I think Anthony touched on the fact that the Social District map would have to be sent to the commission as well.

As far as the enforcement, there is a requirement which was in the presentation that the number for ALE and the number for local law enforcement be included on the signage. The Management Plan would address how some of the other requirements, such as disposing of the cup before exiting the Social District and preventing reentry after exiting, would be enforced. That would largely be on Birkdale and its tenants to enforce and perhaps any violations would be enforced jointly by local law enforcement and ALE, but that's something that would have to be addressed very clearly in the Management Plan.

Mayor Bales said I know that we allow the sale of beer and wine at Veterans Park currently and there's signage that gets put up. How is this different than that?

Ms. Sloop said this would be not for just a specific event, but this would be for the entire district at all times specified in the plan. It would be on a request-by-request basis to create the districts, but once we've created a district, then that would open the door for other requests to come in for those districts.

Mr. Roberts said you will see where certain restaurants and venues may have like a one-day permit or they will get a special permit to expand their boundaries maybe outside of the restaurant for special occasions, but this would be continuously throughout the year.

Commissioner Kidwell said unfortunately the presenter is not able to answer these, but Anthony maybe you can. How are we going to deter underage drinking? We were all kids at one point, and we all wanted to have one of dad's beers or whatever. They could just find a cup, go in, they've got a cup.....are they going to give bands out – a band that says that you are over 21.

Mr. Roberts said my understanding, and I don't want you to hold me to it because it's very new, but to be able to have alcohol you have to be able to have that particular cup that has Birkdale Village, 21, etc. Everything has to go in that cup. The question may be, pull a couple of cups out of the trash can and wash them out and take them home. I can't answer whether that cup routinely changes. I may have my liquor bottle in my pocket and pour it in the cup while I'm out in the parking lot. I think about those things, too, but I don't have a good answer for that.

Commissioner Kidwell said the person who was presenting this is unable to speak on that, but I think the Board should consider that. I was pretty, I won't say wild as a youth, but if something was presented like this to me, I would find ways to get a cup so I could go grab a cheap Natural Light from some place. Obviously, my tastes have expanded since then, so I would be looking for Busch Light or Miller Light. I guess the other question, and you probably can't answer this, but looking at the map these things kind of veer off into the parking deck there. How are they going to control adults who are like, you know what I'm not paying \$9 for a drink at Red Rocks, I'll sneak some mini bottles in and just keep refilling my cup. I'll go to my car and just pull a fifth out, fill it back up, swing back out there to the festivities. What's their plan on that?

Mr. Roberts said these are all good questions. I'm sure Mike is listening, so hopefully he's jotting notes down and he can answer these questions.

Commissioner Kovacs said I know we have the police phone number on the signs that would be posted, but I would assume we are going to need a lot more patrolling around the area just to make sure things are being enforced correctly and with our manpower in the Police Department being spread a little thin, how do we go about covering that and would Birkdale be responsible for paying for that or is that part of a patrol area.

Mr. Roberts said one of the things we've talked about is enforcement. Birkdale does have their own security. Obviously, we have police. One of the things that we could look at and one of the things I think maybe Emily and the Chief looked at when they took a first look at this was the whole enforcement issue of whether Birkdale enforces it from like patrolling the parameters, making sure the kids are not washing a cup out of the trash can and putting beer in it, those kinds of things. That's something we've talked about, but before we got too far in the weeds, we kind of wanted Mike to do the presentation and then just see where it goes. He's listening. I saw his note on the Chat where he's taking notes to help address some of these.

Commissioner Partee said having experience working with the New York State Liquor Authority, most of your venues that sell liquor or have a liquor license, specifically those that are in Birkdale, will be responsible for carding anybody that they issue or pour drinks to. Once they walk out of the venue, then they are not going to be held harmless, but I would think that Chief Hoyle should be on this call because there might be a possibility we might need a satellite command post somewhere near or

around Birkdale, where we have extra security or extra police officers that would patrol. As you know, when you have alcohol and people drinking alcohol, you are going to have incidents of alcohol disorderly conduct.

Mayor Bales said we are hearing you. I don't know if you are aware, we do have a satellite space in Birkdale, so that our officers are routinely rotating through there as well. I think these are all great questions that Mr. Lant can gather all of your questions and be able to come back and present this maybe again and answer more of those questions at another time.

Commissioner Boone said how are we going to handle overserved? If I go into Establishment A, get a little bit tipsy, and walk out and the next place I just have one drink, get in an accident, that last place I think would be liable.

Commissioner Munger said are the cups themselves actually recyclable, and is it possible that they might be putting in place, if they are recyclable, something to recycle these cups, which might also help account for all the cups. I wanted to follow-up on something Commissioner Kidwell said. I actually like the idea of banding people. If they are over 21, they have a band and they have a cup. It's a no-brainer. If you don't have the band and you have a cup, then you get to question that person. Do we anticipate this occurring in any other locations in the town?

Mr. Roberts said we haven't had any requests yet. This request came from Birkdale. This is not Anthony, Emily, Chief. This is a Birkdale request. This is the only one that we know of so far, but this is a new statute.

Commissioner Munger said you probably already thought about it, but when we did the event type of situation for Hunter House, we set it up so that they would have to have an off-duty police officer or something there for events. To offset that cost for us, I would encourage us to seek a similar path with Birkdale Village.

Mayor Bales said since they have experience with this in other locations, I think some of the best practices across their projects, I'm sure they'll be able to answer a lot of these questions because we can't be the only ones asking them. I'm sure they've come up in the past in other places. I'll be interested to hear a lot of how they've handled these questions that you've asked thus far.

Chief Bence Hoyle said I will say that there is concern about the enforcement Ms. Kovacs brought up and some of the others. There's a couple of ways to handle that. Typically, in dealing with just a business, it's an off-duty employment type of situation and the business owner would pay for it. It depends on the situation. The issue with that is all off-duty is voluntary. We cannot compel anybody to work off-duty. We can, but we just pay them time and a half if we make them work. The issue comes up is how do we sustain this over a longer period. I've been doing some research this week about social districts in other states and talked to the Chiefs Association about it and one common way is to create a tax for this district. We would have to figure out what that is, and it would be just enough to cover the cost of ongoing enforcement. We could use on-duty staff or off-duty staff or whatever. It gives us a little bit more flexibility. That's one thing to consider. I do think if you look at the proposed language, there's probably 12 different items that have to be enforced by somebody and some of those seem to be specifically related to police about consumption and things like that. I do recommend we try to figure out a way to fund it. I'm going to end up coming and asking you for people anyway. If it gets to be too much and if we have five or six of these districts across town, in time it could get to be an issue. The good news is I think if we start enforcing it from the beginning, we can deter a lot of that. But I can tell

you, people will absolutely go find a cup and find any way they can to manipulate that situation. That's just human nature.

I do want to make one comment that Mr. Munger brought up about the special situation we have with the business where they have to have a police officer on duty. I would not recommend going that way. In fact, we would probably need to relook at that particular situation because off-duty employment is voluntary and the only way for us to meet that requirement is to take an officer off the street and send them down there to stand-by. I understand why that was done. It was done to try to make sure enforcement was there, but there may be a better way to do that than the particular language that's in there.

I will tell you generally, social districts I think are not problematic as far as creating crime situations. It does help walkability and it helps revitalization, but there is an enforcement piece to it that we have to figure out how to get it right.

Mayor Bales said have you had conversations with Birkdale Village about this specifically?

Chief Hoyle said no, I have not.

Mayor Bales said I think that probably would be a good idea, to sit down and see how they are doing it in other places as well, because you might get some ideas that would be beneficial.

Chief Hoyle said I've researched around the state. There's at least a dozen, maybe two dozen cities that's in the same process that we are – they're considering it, they're going through public hearings, so I think this is coming, it's just a matter of how we address it upfront.

Commissioner Partee said what's the procedure if in fact the officer who is working off-duty gets involved with an arrest. Does he automatically become on-duty at that time or is he still off-duty?

Chief Hoyle said typically when they make an arrest, they will become on-duty at that point, because workers comp and all that comes into play as well. They can remain off-duty if we've got officers there to help him and take over, but we can do that either way. Right now we can cover about 20 to 30 percent of our off-duty. We have a lot of off-duty, much more requests than we've got people to handle. We pull people from the Sheriff's Department and Charlotte and Cornelius and anybody else who wants to work down here, we will pass that off-duty to them, but we still don't cover it all. I think in this situation it's not a special event, it's on-going, we need to figure out a sustainable model to be able to make sure we can cover it. I don't think it's going to take much – maybe two officers on bikes on the weekends. I don't think it's going to be terrible to cover, there's just going to be times if we don't figure it out that we are not going to be able to cover it. We just won't have the people available. I really worry about big events that happen. If we have a big event like we had this week and all of a sudden I've got 12 officers on one crime scene trying to sort things out, I don't have anybody to meet that obligation.

Commissioner Phillips said the signage, I see that it's like the three spots. I think that it would probably be more ideal to have it on the interiors of the parking deck so that when people exit, they are aware of the rules already in place with the time and the locations, because I can hear the excuses of I didn't see the sign, so that could help alleviate some of the issues. Also, putting them outside of each establishment that will be participating in that so when you walk in you know the expectations that are set upon you. I feel like that could help alleviate some issues. I know everyone keeps bringing up

underage drinking, but Birkdale opened when I was in high school and nothing has changed except kids use Starbucks cups and they still do. However, I feel like the Town has been responsible with changing age requirements and the people over Birkdale have gotten a little bit more mindful of having younger people around and having their own staff on hand to handle issues, so I don't really see that because the thing is, if you are inside drinking, outside drinking, there's always going to end up being something and luckily for us we don't have as many issues as some other towns, but I do think we need to have the Chief involved in these conversations because that kind of experience and the what-ifs I think are really critical. I think this could be promising to help Huntersville maybe become more of a little vacation area and I have faith in people that they will drink responsibly and I think this helps even normalize that one beer walking around isn't weird, so I'm looking forward to seeing how this progresses over time.

There being no further business, the pre-meeting was adjourned.

**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, 101 Huntersville-Concord Road, at 6:00 p.m. on February 7, 2022.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the meeting to order.

Mayor Bales called for a moment of silence.

Mayor Bales led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS – STAFF QUESTIONS

Mayor Bales

- Participated in Metropolitan Transit Commission meeting last week.
- From Lake Norman Economic Development Corporation, Huntersville has a total of 28 projects and hosted a company last week for a project visit.

Commissioner Boone

- Attended the NC Power Agency meeting on January 25.
- Provided update from the Huntersville Fire Department.
- New stop signs have been installed at the corner of Central and Holbrooks.
- Registration is open for Huntersville 101.
- Huntington Green is holding a Festival for Services on April 2 at Lake Haven Community Church. The event will provide information and services to the community that the County and the Town of Huntersville provide.

Commissioner Kidwell

- Provided update from the Charlotte Regional Transportation Planning Organization meeting last month.
- Details are being finalized for a Veterans Affairs Officer to have office hours in Huntersville once a week.

Commissioner Kovacs

- Encouraged residents to sign up for Huntersville 101.
- Provided update from the Lake Norman Chamber of Commerce.
- Provided update from the Huntersville Regional Chamber of Commerce.

Commissioner Munger

- Huntersville Ordinances Advisory Board did not meet this month.
- Next meeting of the Public Arts Commission is February 9.
- Attended groundbreaking ceremony at Birkdale Village for the new Jewel Box shops on January 26.
- Attended the Building Our Infrastructure Virtual Town Hall presentation by Congresswoman Alma Adams on January 27.
- This Wednesday will tour the Lake Norman Elementary School and learn about one of our local charter schools.
- Consider supporting local non-profits.

Commissioner Partee

- As part of Black History Month, recognized Garrett Morgan, a black American inventor who patented the first traffic signal light.
- Town of Huntersville Black History Month celebration events will be held at the Waymer Center every Monday during February. Expressed appreciation to BeeJay Caldwell for her presentation today.
- Provided update from the Huntersville Greenway, Trail and Bikeway Commission meeting on January 19.
- Reminded everyone Huntersville Police Department has free child safety gun locks.
- Consider supporting Cool Kids Clubhouse.

Commissioner Phillips

- Provided update from Ada Jenkins.
- Provided update from Visit Lake Norman.

Commissioner Kidwell said Ms. Huffman, you recently provided the Town Board with numbers from Discovery Place Kids. As I dove into those numbers, it looks like on average for the years of 2015 through 2019, they had 688 people visit daily during their operating hours. That averages about 98 people per hour. Is it possible for them to provide how they are measuring their numbers, with what technology, and provide the Board with financials to support those numbers.

Jackie Huffman, Deputy Town Manager, said we would be happy to ask them for that. I'm confident a copy of their financials is on their website, but we will get that.

Commissioner Kidwell said Ms. Sloop, I just need some clarification. One of the reasons that's continuously given for not wanting to pull items off the Consent Agenda to vote on is we would end up in litigation if it was a developer or an individual who paid for such public hearing or some item change.

However, if the Town staff is calling for such public hearings and not an individual or developer, would the Town then file a case or a complaint against themselves if it was voted against.

Emily Sloop, Town Attorney, said the reason that we typically have our calls for public hearings, which are not legally required, they're actually going a step above and beyond what is legally required just to provide additional notice. The reason we typically have those on Consent is because we typically do not deny any requests for public hearings.

Commissioner Kidwell said I understand that, but the case given it's generally that if we vote against it, we are going to end up in litigation. I'm saying where the Town is calling for a public hearing, staff is, and an individual wants it moved up for further discussion or just a breakdown of what that public hearing is going to consist of, would the Town sue themselves.

Ms. Sloop said I understand the question, I was just providing the background as to we wouldn't typically deny a request for a public hearing because we wouldn't want to be in the business of picking and choosing which public hearings that we allow versus disallow. I highly doubt that the Town would try to sue itself, though, in response to your question.

Commissioner Kidwell said is there any background or proof, because we have pulled things off the Consent Agenda to discuss them in the past, public hearings, has any of those ever been voted against not to be heard.

Ms. Sloop said in discussions that I had with Jack earlier today, in his 20 years with the Town, we've never denied a request for a public hearing.

Commissioner Kidwell said Mr. Richards, are you around? We may or may not potentially talk about something called Traditional Neighborhood Development Urban Conditional District. Would you mind just kind of giving a summary of what that is.

Brian Richards, Assistant Planning Director, said it's one of our zoning districts in our ordinance. It allows for more of a in layman's terms throwback old school neighborhood as opposed to what you see in your contemporary subdivisions. That's pretty much it in a nutshell.

Commissioner Kidwell said Ms. Mielenz, is she available?

Jack Simoneau, Planning Director, said I don't believe she has any items on the agenda, but I'd be happy to try to answer any questions.

Commissioner Kidwell said that would be great, Jack, thank you. We may or may not potentially talk about downzoning. I would just like a brief explanation of what downzoning is.

Mr. Simoneau said it's just generally speaking, if you have a property and let's just use Residential zoning. Let's just say you have Residential zoning that allow 5 units an acre and it gets changed down to 2 units an acre zoning. This is hypothetical. That would be considered downzoning.

Commissioner Kidwell said Jack, if you are still there, since Ms. Mielenz is not available, I would like to talk about the potential of rooftop amenities. I was just curious.....I'll hold off and wait to talk about this later under a different discussion.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

BeeJay Caldwell, said thank you for inviting me. I have had a wonderful day. We were over at Waymer and that went real well and I'm glad that I was able to come in person because I am mystified by this Zoom. I hope soon the pandemic will allow us to meet in person hopefully, but if not as long as you will give me special permission to come in, I'll be delighted to come in.

My Black History presentation today is on a well kept secret in Huntersville. It's the Rosenwald School #2, located on Dellwood Drive. Institutions of this type of learning have all but disappeared and they are in danger of being lost to time. This is significant as there are only a few left to tell the story of how African-Americans got their first chance to be educated and literate in the twentieth century. It is worth being publicized that soon it may have the designation for a historic landmark locally.

Now for a little more information about Huntersville Rosenwald School #2 for black children. For the last 100 years Pottstown leaders humbled and sacrificed themselves to answer the call for justice for citizens. They fought for the good of others, especially the elderly and children. For the sake of humanity, their focus was and is on compassion for the most vulnerable citizens. Black congregations opened their doors to help educate the descendants of the enslaved early on.

After the Civil War, Huntersville's governing body had no options for educating the descendants of the enslaved who had been forbidden to learn to read and write. Education was to be their only way out of poverty. So Huntersville Rosenwald School was the means citizens used to move beyond being stuck illiterate to an opportunity of becoming educated. Julius Rosenwald and Booker T. Washington answered this call by creating the matching grant program that led to Rosenwald Schools being built throughout the south and believe it or not, 813 were in North Carolina.

Huntersville is the proud owner of two. You may not know this, but the Caldwell Rosenwald School located on Highway 73, I think it's Burgess Supply, is one and the Rosenwald School #2 for Black Children on Dellwood is the other. Today the Parks & Recreation Director, Mr. Michael Jaycocks, gave me the good news that the little Rosenwald School will be available back as a rental in March 2022.

As is evident 100 years later, change has come to Pottstown as over half of its original citizens have died or moved away. Today there is no Pottstown, it's the site of homes to several nationalities and is a bargaining chip between the Town and the developer.

I hate to hit you with that, but that's how I see it and if you can make some changes to help me understand that is a mischaracterization, I certainly shall appreciate it.

Written comments attached hereto as Exhibit No. 2.

AGENDA CHANGES

Commissioner Munger made a motion to move Items 9.E. (call for public hearing on Petition #R21-17), 9.F. (call for public hearing on Petition #TA2-15), 9.G. (call for public hearing on Petition #TA22-01, and 9.H. (call a public hearing on Petition #TA22-02) to the Consent Agenda as Items 10.B., 10.C., 10.D. and 10.E.

Commissioner Phillips seconded motion.

Mayor Bales said is there any discussion around moving the items 9.E. through 9.H. from Consent. Before we start with discussion, I would like to refer back to our Rules of Procedure, under Rule 4, Item C, the Consent Agenda, just to make sure that we are all understanding, it says "Approval of minutes and other items that are judged to be non-controversial and routine shall be placed on the consent agenda...." And then it moves on to say, as a matter of fact I'm just going to read the whole thing, so everybody understands our rules. "The Board may designate a part of the agenda as the consent agenda. Approval of minutes and other items that are judged to be non-controversial and routine shall be placed on the consent agenda by those preparing the proposed agenda. The Town Manager shall have the authority to place any item on the consent agenda as part of the proposed agenda. Any member may remove an item from the consent agenda and place it on the regular agenda while the agenda is being discussed and revised prior to its adoption at the beginning of the meeting." We are now in that beginning of the meeting.

My question as we are opening this up for discussion, my question to each of you, because I think that's the litmus test, is it non-confrontational or non-controversial and routine. I would like to hear from everyone, please. I think we have continued down this path and we need to understand our rules and how we are going to be working with one another. I'd love to be able to not have to stop here at Agenda Changes every Board meeting.

I have a motion and I have a second to move calling four public hearings over. Are any of these considered non-controversial and routine, because obviously they're routine. We call public hearings every Board meeting, so now it leaves us with the other litmus test of non-controversial. I would also remind before we start the dialogue that we are not discussing the merits of the item, we're simply talking about calling of the public hearing. The discussion on those items comes during the public hearing itself.

I will start with Commissioner Phillips. I would like to ask you regarding the calling of the public hearings. I'm sorry, Commissioner Boone, I see your hand.

Commissioner Boone said point of order. We have a motion and a second on the floor. The person that made that motion is usually the first one to speak on the motion.

Mayor Bales said thank you, fair enough. Commissioner Munger, would you like to kick us off.

Commissioner Munger said I'll keep it simple. Based on the rules, is this routine? Yes. Is this non-controversial? Yes. And I answer that to all four of the items.

Mayor Bales said I will move from there, I'll go to Commissioner Kidwell, because I'm sure you've got some points you would like to make.

Commissioner Kidwell said as I said the last time, in being transparent with the general public, I see if it's non-controversial, if it's routine, then what's the problem with actually talking about it, getting a little bit more summary from Town staff about what it's about. For instance, what would be 10.F., calling a public hearing for the TOD, talks about Petition #TA22-02, which isn't even on the website yet. Yes, we are calling for a public hearing for something that's not available for the public to even see. I think that would be a great discussion point. We talk about another one that's somewhat considered routine and non-controversial, it's about amenities on rooftops when in fact what they are using for the amenities and rooftops section is one of the most controversial votes of the previous Board and that was the North State project. There's a lot of questions that should be asked before that comes in front of us. I

think that is controversial. That was one of the main reasons that Save Downtown Huntersville rose up and now we are having something that's going to be calling for a public hearing that the HOA Board, either I think I heard two or three times voted on it. They were a divided vote and yet staff is still bringing it in front of us and I think we should talk about that before we call for a public hearing. As the attorney stated, these are public hearings called by staff, so we are not going to be litigated by our own staff if we say I want more information before that's called, the public hearing. Are we saying no to that or we say but make sure you have your ducks in a row for that public hearing, otherwise staff comes unprepared for the public hearing to talk to us about it.

Mayor Bales said I would like to, since.....

Commissioner Kidwell said point of order. Since we are talking about rules, Rule 9 in our Rules says when the presiding officer is in active debate or become engaged in debate on a particular proposal, he or she may, but is not required to, designate another Board member to preside over the debate. Also, under Roberts Rules of Order, everybody else should speak before the Chair, which is the Mayor position.

Mayor Bales said I am happy to do that. I will tell all of you and for everyone, my preference is to be completely objective and to sit back and the Board needs to be working through these things. When I'm put in a position where I'm having to vote, that is a different conversation. I want to make sure that everyone of us understands the rules in which we are working. I am very frustrated that there seems to be an unwillingness of this Board to work together, because that's what I'm seeing right now. I think that it's very important that each and every one of you collectively is working to find resolution and solutions and not being combative with one another, especially on the Consent Agenda. I'm simply laying the rules out and then everyone is having the opportunity to weigh in and I also think at some point after all of you have this opportunity to weigh in that then we will also allow the Town Attorney to come in and share with us her views as well and at that point I want you collectively to make some decisions to move forward. This Board continues to be stymied and we've got to figure out how to work together, otherwise what I'm seeing are individuals digging their heels in on either side and we're never going to get anywhere. That's what I'm seeing and that's what I would like to change. We've got to work together for the common good and the reason that every single one of you are here is for the residents of this community. I believe that. I know that each one of you love this community. We shouldn't be stymied over what's on Consent and calling a public hearing should be non-controversial, and yet here we sit. Thank you, Commissioner Kidwell. I'm going to move through so everyone has an opportunity to speak. Commissioner Partee, would you like to share your thoughts.

Commissioner Partee said I'm going to drop down to Item 9.H. which is now 10.E. and the reason why I'm particularly focused on this provision to amend the Zoning Ordinance Article is because last month I was the only dissenting vote against this one. I cannot in good faith vote to move this over because I was the only dissenting vote. I still feel that I haven't been adequately satisfied about why this is on here and not given back to the Downtown Committee to let them make a decision on it. I was even included last month.....

Mayor Bales said I just need a point of order. We are not debating the items, the substance of them we are not debating, because that happens through the process of the public hearing and moving forward.

Commissioner Partee said my issue is I dissented on it last month and I can't vote for it now.

Mayor Bales said thank you Commissioner Partee. Commissioner Kovacs.

Commissioner Kovacs said so your two questions were.....what were your two questions.

Mayor Bales said my two questions were is this routine, do we do this regularly, calling for a public hearing. And then the second one, is it non-controversial. Items that are on the Consent Agenda should be non-controversial.

Commissioner Kovacs said I do think that we do this, but I can't agree with the fact that they are non-controversial. As Commissioner Kidwell and now Commissioner Partee pointed out, there's some important topics and they are ones that have to do with our Planning Board bringing them up, not an applicant, so my answer is no to the second question.

Mayor Bales said thank you, Commissioner Kovacs. Commissioner Boone.

Commissioner Boone said it seems to me like we started this discussion or debate and then you set the rules of the debate after Commissioner Kidwell made his opening statement. You can't change the rules once the debate starts. I firmly believe that if one commissioner has one question, then that item needs to be pulled off the Consent Agenda.

Commissioner Phillips said dealing with a toddler is less frustrating than this is right now. Calling a public hearing is non-controversial. It is routine. I feel like we should be setting and showing the same respect and standards for our staff that we show to third parties. I think that is problematic for me. These discussions right now have me concerned because I feel like people are already showing their partiality. Also, public hearings are for the public. They are not for us. Sitting here with people saying well, I don't like this one.....well, I don't like that one, we are all allowed our own views and feelings on these things, but the thing is the public, not us, deserves to have these hearings, so they can tell us how they feel and think. Frankly, there have been things that have been public hearings I didn't support and I still supported them being a public hearing because it wasn't about Stacy's interest, it was about the best interest of Huntersville. I would like to see us be better about this. The thing is, if we don't want to call public hearings because we don't like something, then we are getting in our own way and I just really hope that this is the end of this because we should be better.

Anthony Roberts, Town Manager, said just a suggestion. Calling public hearings are not required and probably not many towns do it at all. You've got to follow the statutes, you've got to have a public hearing, you've got to go to the Planning Board. What we are getting hung up on the simple thing of calling for a public hearing. If we did our research, not many, if any, do that. If we didn't have those on the agendas to call for the public hearings, we may not be having this simple debate. That's just a suggestion, but obviously the Board can do what they want to.

Mayor Bales said Ms. Sloop, would you like to weigh in at all.

Emily Sloop, Town Attorney, said the only thing that I would add to the conversation aside from what Anthony had just mentioned as far as the calls not being legally required, is that what is required that once we call the public hearings we still have to go through the notice requirements that are in the statute, publish the notice, we then have the public hearing where the public can come and speak. The Planning Board then considers it, at which time the public can speak at the Planning Board meeting. We then have it come back to the Town Board a third time for final action, when the public can also speak at the comment period. There are multiple times for the public to weigh in on these matters that come before the Board. I just wanted to make sure that it was understood that the Town has always been

doing what is legally required as far as notice. This is just going above and beyond that required notice as an additional heads-up that a public hearing is coming down the pipeline. In no way by not having the call for a public hearing do we segregate any of the rights for the public to speak at the public comment periods on multiple occasions.

Mayor Bales said by having the conversations around whether or not to call for the public hearing, is the Board then debating the issue before the public ever even gets the opportunity to hear it.

Ms. Sloop said depending on the extent of the conversations around the question, that is a potential. There are specific conflict of interest rules that have to be considered and really the question that is before the Board right now is whether or not to call the public hearing. The question is not whether or not you are in support of or against a particular item that is up for a public hearing.

Mayor Bales said thank you. Any other questions or comments? Commissioner Kidwell.

Commissioner Kidwell said I'll tell you, after the last meeting I was texting Commissioner Munger and no hard feelings. Maybe that's an issue with some people on the Board about that if they lose an argument or whatever, that they've got hard feelings against the opposing team, so to speak, but I don't. We're not all going to get along. There are going to be a lot of 3-3 votes. As far as working together, I think I'm doing a pretty good job. I'm bringing it up, we're talking about it. The Board then either votes for it or votes it down. That's called working together. That's called having open, honest discussion about these items. It's your vote. I've said this a long time, it's your vote – you have to stand by it. When I call these items up, it's not so I can say we're voting against this, we're voting no on that. It's to bring and shed more light about what's coming down the line. We have two public hearings tonight that were thrown back off the main agenda's Consent Agenda, that on social media people were like wait, we are wanting to put senior housing where. They had no idea until they saw it get moved. Why didn't we talk about it. The questions were asked. We're talking about the other public hearing regarding the waste/recycling center here in Huntersville. I just had a conversation with a citizen this weekend about that, how much they use it. Is the expansion great for the town? Are we going to be able to do more there. These are the type of things.....what are we calling this public hearing for; you know what, it's for an age restricted community, it's going to be over so and so, public hearing will be this date. That's why we are doing this. It's just simply to talk more about it. Not to vote against it, not to vote for it, but to bring more information forward for the general public, so if they are very and truly interested in speaking for or against and coming to those meetings, which hopefully won't be virtual anymore, they can.

Mayor Bales said thank you, Commissioner Kidwell. I would echo your sentiments that the work that the Board does should not be personal, but the work that the Board does should be the vote and then you move on to the next topic. There should not be, as you stated, hard feelings from anyone. Each and every one of you were elected for a reason and a purpose and for your voice to be heard. I hope that while we have had lively discussion, that doesn't prevent discussion from happening again in the future as we move through not only this evening but tomorrow and the next day.

Mayor Bales call for a roll call vote to approve changes to the agenda.

Commissioner Phillips – Approve
Commissioner Partee – Approve
Commissioner Munger – Approve
Commissioner Kovacs – Deny
Commissioner Kidwell – Deny

Mayor Bales said we are going to continue to have to work through these. I understand, or at least I'm attempting to understand, Commissioner Kidwell, your points on this. And I'm struggling with it. I'm not going to lie. I struggle with it because we are already going a step above what state statute requires. I'm struggling because if we leave it under Other Business, then it is presumed that discussion and a vote in the negative is allowed, and I certainly don't want to mislead anyone in that regard. And I struggle because we have always, since I've been on the Town Board, called for public hearings in this manner. That's the piece that I struggle with because it was not an issue when you served with me before. And I also understand that people change, and people may view things differently as we proceed and as we grow. But at this point my pros and cons here in wading through this and listening to our Town Attorney, leads me still to believe that these items should be on Consent. Therefore, I will vote to move those four calling of public hearings for March 7 over to Consent. If I can't reconcile the possible discussion and back and forth and debate over calling a public hearing, then I feel like I need to make sure that it is in the Consent space, because it shows that it's non-controversial and it is routine. It meets the litmus test of our own Rules of Procedure. That's where I'm going to stand.

Motion to approve agenda changes carried 4 to 3 (Commissioner Phillips, Partee, Munger and Mayor Bales in favor; Commissioners Kidwell, Kovacs and Boone opposed).

PUBLIC HEARINGS

Petition #R21-10. Mayor Bales called to order public hearing on Petition #R21-16, a request by Mosaic Development Group to rezone +/- 9.8 acres at 9102 Beatties Ford Road from Rural District to Neighborhood Residential Conditional District for age restricted multi-family housing (Parcel #01526437).

Brian Richards, Assistant Planning Director, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 3.*

This is a conditional rezoning for R21-16, a proposal by Mosaic Development Group. This is down on Beatties Ford Road. It is 9.8 acres at 9102 Beatties Ford Road. This area is under some changes recently. We have the Oak Grove Hill subdivision that's being developed currently to the east, that's the Neighborhood Residential. In yellow to the north we have Long Creek Mini-storage facility. To the west you have the two CMS schools, Long Creek Elementary and the Montessori school. To the south you have two older rezonings – one by Glenwood Development and the other is the Long Creek Retail.

Here's a current aerial of the site. You can see there's one home on the site as well as an accessory structure. This has been looked at by the Charlotte Historic Society. It's one of their eligible homes, but per our conversation with them lately, they have no interest in pursuing a historic designation for that.

Here's the site. It's 9.8 acres, currently zoned Neighborhood Residential. The current use is single-family. No one is currently living in the home.

The Mosaic Group is proposing for an age-restricted multi-family at this site. One building, one lot. The application would allow for up to 130 multi-family units, but currently they are only asking for 123. In recent discussions with the development, that number may scoot down just a little bit, depending on their product and how the marketing works. At that 123 units, you would have a density of 12.5 units per acre.

The site is currently covered by 6.3 acres of tree canopy. That's 64 percent. They would need to save 10 percent for the site. Currently they are proposing to save 32 percent, which is 3.15 acres. There are 25 specimen trees on the property. They are required to save 10 percent, which would be 13 trees. Currently they are saving 52 percent.

They are going to be asking for two modifications. The first modification is for a reduction in parking. The ordinance requires that for every 1-bedroom unit, there's 1 parking space required and for units that have 2 or more bedrooms, you have to have 1.5 spaces. They are asking for a reduction to just over 1 parking space per unit. We've asked them to provide a parking study of all their communities and they have done that. Currently, they average 1.25 spaces per unit across all of their portfolio. That being said, their average residents have less than 1 car per unit, it's just over ½ car per unit.

When it comes to financing of their product, the North Carolina Financing Authority requires a minimum of 1 space per unit. At this time, staff is working with the developer on coming to a solution on this to see if they can come up to our standard. If not, we'll try to work with them to get some comfort level to see if we will support this modification.

There's a second modification for side yard parking. As you may or may not know, apartment building types require parking to be on the side or rear. Due to the unique topography and the shape of this parcel, the developer is asking for side yard parking. We feel we can support this request due to the difference in elevation. The parking would be approximately 5' to 8' below the elevation of Beatties Ford Road. They are also offering a 20' buffer in which that would be heavily utilizing evergreen trees on the area that would be adjacent to the parking.

Here are the elevations of the product. If you are looking in off of Beatties Ford Road, this is what you would see. As you can see the main entrance to the front is below grade. It's probably about 5' to 8' depending on how grading works out at final design. As we said they would be offering 20' of vegetation along the front, which is not required. In this second view down here on the right, you will see the main entrance to the facility.

This project is located in the Activity Center of the 2040 Community Plan, which allows for and encourages a mixture of uses, including multi-family if designed properly. We have several parts of the 2040 Community Plan that would support this.

Going back to 2005 in the Beatties Ford Road/Mt. Holly-Huntersville Small Area Plan, it actually calls for looking into the future that this could be a good area that allows for elderly housing, it's a good spot for attached housing. Here we are 15-16 years later and due to good planning practices, here we are starting to fulfill these thoughts.

At this time, we would be in support of this as long as we could address the concerns that we have for the Parking Modification #1.

Commissioner Kidwell said I noticed in this application that no TIA was required.

Mr. Richards said that's correct.

Commissioner Kidwell said I'm assuming it's because it has the term age-restricted 55 and older.

Mr. Richards said that would be correct.

Commissioner Kidwell said however, this 3-story apartment and age-restricted is often, when people see it's an age-restricted community, they think patio homes or townhomes and this is essentially a 3-story apartment building, age-restricted community, not like some of the other ones we have here in Huntersville. But it's right across the street from a shopping plaza, so with no TIA required, who is going to be responsible for building sidewalks, doing intersection improvements for a crosswalk, so these individuals who if they've only got one car or if they want to walk over there to get in their steps and exercise to go shopping at the Walgreens to pick up a prescription or Food Lion or Lowes Food, whatever it is over there, who's responsible for those improvements.

Mr. Richards said the applicant will be installing a 10' path along their property edge along the front of the building. They are also going to have a trail for their residents to enjoy. As with anything else, typically we don't require off-site improvements for sidewalks, but those would be traffic improvements if warranted, but due to the Town's TIA policy as well as NCDOT's, a traffic study was not warranted for that.

Commissioner Kidwell said just because it's not warranted, that is something we can ask for in the final.

Mr. Richards said I would defer to Ms. Sloop about asking for off-site improvements that aren't required as part of the TIA.

Commissioner Kidwell said is that something we should ask, not we would ask.

Mr. Richards said that would be up for you to ask of the applicant to see if they would be willing to do that.

Commissioner Kidwell said I think it would not be beneficial to anybody to move into these apartments who may or may not have 1-1/2 cars to try to access the amenities of a local shopping center and then walking out there could be very dangerous. Are there elevators?

Mr. Richards said I will defer to the applicant on that.

Commissioner Munger said I know in years past we've approved a number of the over 55 communities. Do you have an approximate count of the number of units that are coming to Huntersville that are 55 over specific?

Mr. Richards said that is a fantastic question. I thought about that at dinner. I have not had a chance to look that up, but I will get you that answer

Commissioner Munger said on this particular property, the location that I believe is south and west in that little "L" portion, that fill in portion.....that happens to be a commercial CD property. Do we have any concerns about having that connectivity from a commercial property into this particular development?

Mr. Richards said no, the applicant has been kind enough to reserve right-of-way for a public street through these properties that would connect over to Oak Grove Hill. Because this is a one building and one lot situation, not a subdivision, we could not require that, but they are going to offer that to us as one of their offerings as part of the Conditional rezoning.

Commissioner Munger said I know around this particular portion of town a lot of times we have to deal with critical watershed. Is that the situation here or do we have any concerns about the amount of impervious area?

Mr. Richards said geographically they have hit the lottery. They are out of the critical watershed.

Commissioner Partee said the home that is on the property right now, is that home being considered as an historical landmark. Are they going to remove that house?

Mr. Richards said we reached out to the Historic Society and they do not have interest at this time to move forward in giving historic status to that property.

Mayor Bales said we will move on to the applicant, if the applicant would like to join us to speak.

Mr. Richards said we have Cindy Reid with Irvin Law Group.

Cindy Reid, Irvin Law Firm, said thank you for having this public hearing tonight and we are excited about this project because it is an affordable project. It's available to seniors who generally make less than 80 percent of the area median income. We are the land use attorney. Other folks on this call are the Mosaic Non-profit Affordable Housing Group and Jimmy Royster and Kathy Stilwell join us from that group. We also have Andy Breit from Cole Jenest and Stone, the engineer on the project. And I think the architect may be on the line, too, but I'm not sure about that.

What I would like to do is to turn this over to Jimmy or Kathy so that they can tell you about Mosaic's background. They've been around for 50 years and have done multiple developments all over North Carolina.

Jimmy Royster, Mosaic Development Group, presented PowerPoint. *PowerPoint attached hereto as Exhibit No. 4.*

Mosaic Development Group is a 55 year old Charlotte-based non-profit. We work statewide providing high quality housing across the state. We have over 25 properties and over 1,200 units. Some of our properties are specifically for folks with disabilities, some are for families and some are for seniors. Tonight we are here to talk about a senior property. It's our mission and commitment to be a good partner with our communities. We have a long track record. We work in our communities. You are only able to do that if you deliver on what you commit to in what you are looking to build. We have an organizational structure and track record to do that.

We work with non-profits. We work with Catholic Diocese of Charlotte for a senior property. In Mooresville we have worked with Wesley CDC which is affiliated with the Methodist Church that's Huntersville based. We've worked with Western Carolina Community Action. We just finished up some hurricane relief work in the City of New Bern. We work with some of the largest financial institutions in the country and in the world to be able to make these properties work – Bank of America, Truist, JP Morgan Chase. RBC are our financial partners to make sure the properties are serving the community and remain as asset.

These next two slides here are just some of our senior properties and what it is we are trying to do. To us, street appeal is important and community is important. The property on the left, this is our Cherry

Gardens project. We can be in downtown Charlotte within 5 minutes from this property. Other properties from Mocksville and Mooresville. Having community spaces, having spaces that have designated handicapped units, but also all of our senior units being universal design so that folks can age in place. The reality is a lot of the older homes that folks live in don't have the grab bars, don't have the access that folks need to continue independent living. We have this built-in to our apartments and into our designs. Earlier there was a question regarding elevators. There will be a minimum of two elevators in this building.

Working on having community spaces, there's questions regarding parking and how folks have access. We work with local churches and community groups to be able to help with transit for folks to be able to get to their services. Brian had earlier showed the survey that we had of our existing properties. Over half of our properties are for seniors and this is the reality in terms of the age that we serve is just not a lot of folks have cars, but we're able to partner with folks to be able to allow them to continue to thrive and be successful.

The next couple of slides Brian has already covered and I won't read to you your own plans for the Town, but we picked this area purposely both for consistency with the plan and then what is there in the community. The site's proximity with CVS, the Family Dollar and Food Lion, we think is ideal where it gives seniors an opportunity to live in a place that is quiet, with also access to amenities. We also like that it's close to Latta. That is a draw for seniors to remain active in the area. We think this is a good mix and a lot of our properties end up being in the buffer between some of the commercial uses and the change that is coming to this area with the Long Creek retail and the single-family that is being built behind. This is a very typical site for us. While we are here in Charlotte, we also do a lot of rural projects, smaller communities. This is pretty typical for this product type.

This is a little bit more detail about the development and what we are looking to do. We are currently proposing 123 units for seniors 55 and up. That is made into the deal that it is 55 and up. There's no exception to that. It's conditional to this plan as is independent living, so there are no nurses on site. If folks have home care or rehab that they need, we allow for that, but it's not a nursing facility.

As stated earlier, universal design is a big part of what we do. We want seniors to be able to thrive, so all units have grab bars, they have call stations for folks to be able to get assistance. We are set up for folks to be able to survive and thrive independently. Like I said, we are local. We are here in Charlotte. We have an asset manager that manages all the property managers, and we don't exit our properties. We stay in them long-term. If there's a problem, if there's a concern, you can find us. It's not somebody out of state that's checked out. These are professionally managed. There is a manager and maintenance staff to make sure that the property not only looks stellar day one, but also year 30.

For the rear of the site looking between us and the new single-family development coming in, there's a buffer of about 250'. In terms of traffic generation, some of the discussion earlier, traffic engineers and the numbers that they utilize that senior housing is one of the lowest generators of traffic and that the seniors tend to travel at off-peak hours because they don't go out in rush hour. I think that kind of goes over a number of different things on the property.

I have a couple more slides. The next one, just in terms of who our residents are, while it's a 55 and up, our average residents are typically 71. Eighty percent of them are women and 88 percent of them live alone is what we typically see. We've already gone through the elevations. We can discuss those further if you want. I also have additional slides of properties that exist in the area. I'm happy to show those or answer any questions.

Commissioner Boone said what is the average number for first responder call on your properties?

Mr. Royster said I don't know that number. I could ask property management.

Commissioner Boone said that leads into my second question. You say you have professional managers on duty. Will that be 24/7?

Mr. Royster said no, sir. It is 40 hours a week for the manager and maintenance staff. They have an emergency call number for folks for after hours.

Commissioner Boone said who monitors that emergency call number – 911 or a call center?

Mr. Royster said for maintenance emergencies that gets called to the maintenance staff.

Commissioner Boone said the hallways I believe have to have a sprinkler by code. Do the individual apartments have sprinklers?

Mr. Royster said yes, sir.

Commissioner Boone said this is a very congested area about twice a day during school and I have some concern of either a ladder truck or an engine truck turning in off of Beatties Ford Road into the property. Does the fire marshal get involved in the Certificate of Occupancy on this property?

Mr. Royster said in terms of signing off on the final plans and the building once it is constructed?

Mr. Boone said right. I'm concerned about a fire truck getting into the property during the peak of either dropping kids off or picking them up during school.

Mr. Royster said the typically the site plan will show how a fire truck gets in and gets out of the site and also turns around and gets out. In terms of traffic on the public street, I believe that's outside of our typical scope. Perhaps Andy Britt or the Planning Department could speak to that.

Commissioner Boone said where's the closest CATS bus stop?

Mr. Royster said the CATS bus stop is more than a mile.

Commissioner Kidwell said my mother ran a facility very similar to this for 30 plus years and they had pretty tight security to get in and out of the facility to protect the residents. Is this a key carded facility to where the residents will need a keycard to get in and out doors that will be locked, so someone just can't walk in and commit a crime?

Mr. Royster said there will be secured entry into the buildings that will either be a FOB type technology like you mentioned or a keypad that can be updated. There's not individual access into each unit on the first floor, there's controlled access, I believe four or five doors into the building. If it's a FOB technology you will know who's actually accessed into the building each time.

Commissioner Kidwell said is this community a gated community where it's got a dropdown gate where if someone wanted to come in, they would have to have a key fob or enter a code into a gate to lift up a door, have it slide back, or anything like that or do just you drive in?

Mr. Royster said you just drive in. I think that would cause a traffic issue backing up having a slider.

Commissioner Kovacs said I guess you answered one of my questions. I was going to ask about transportation and if there's a shuttle or something, because it might be somewhat treacherous for them to walk to the stores and stuff and you mentioned that there isn't, but you usually will connect with community groups. Have you put any feelers out for that. Do we know the likelihood of that. I just worry about them being able to get somewhere if not everyone has a car.

Mr. Royster said we work with the Catholic Diocese of Charlotte and Wesley's CDC and it is often the members that actually have the property, their church connections, and those types of groups that once we know who's actually living at the residence that we coordinate with and then also the other non-profits in the group in the area to serve the community.

Commissioner Kovacs said do we know what the plans are for the Long Creek Retail. I'm just trying to get a gage on if it would be something that would be beneficial to this development or.....

Mr. Richards said I'll take that. Occasionally we will get interest from a development group. Roughly 6 months ago I talked to someone about reviving that plan and so it would be totally up to the market if someone wants to move forward on that.

Commissioner Kovacs said I think Mr. Richards mentioned that there's going to be a walkway or something on the back of the property. Did you mention that?

Mr. Richards said the applicant is proposing a trail around in the wooded area.

Commissioner Kovacs said so that's an undisturbed buffer, but they will just put in like a natural trail.

Mr. Royster said we are looking at doing a trail from the rear of the building and then there's also fire access to the side of the building that we will connect that up to Beatties Ford Road as well. There will be a loop that residents will have access to.

Commissioner Kovacs said this is 55 and up and it's income restricted and what is our guarantee that it will stay that. I know you are a non-profit, but what is our guarantee it will stay that 55 and up and it will stay income restricted?

Mr. Royster said in the planning process here in the rezoning, we are asking for as a condition of the planning, that this be age restricted. Even if somebody else wanted to come in and utilize this plan, the age restriction is baked into it on the Town's side, so that end is one avenue that it's in. There will be deed restrictions on this property that will both be affordable and be seniors 55 and up. That is at the state level our main financial partner is North Carolina Housing Finance Agency and we have to designate straight out of the gates if we are a family property and no restrictions, or we are age restricted. We are fully in the process of we would be a senior only. One and two bedroom congregate building wouldn't work as family. There's no switching mid-stream here, so both rezoning and the deed restrictions and the requirements of our funders, will remain 55 plus.

Commissioner Kovacs said your funding is tied to that income restriction being upheld?

Mr. Royster said correct.

Commissioner Munger said would you be willing to voluntarily contribute funds to improve sidewalks and/or road related improvements related to the needs of your residents?

Mr. Royster said in terms of just a capital improvement?

Commissioner Munger said yeah, I mean I'm trying to understand there's the possibility of you having residents that would want to cross over to possible future development across the street and/or there would be sidewalks along that they obviously want to make use of. It would be a great benefit to the people who would end up living there and it would be a desired need and we are just trying to balance out the needs in terms of the capital improvement projects we have already and the additional needs that might be directly attributed to the residents of your particular development that they would want. I'm just trying to understand if that's something you would be willing to work with the Town in terms of establishing a fund or something to that effect that would assist with those needs.

Mr. Royster said I can certainly take that back to our team, and also discuss it with the staff in terms of what that would look like. We would be ecstatic if CATS would make a stop at this location. We have had sites where we have put in bus stops. I don't have any power over what CATS does or routes. I don't know how that works, but we are willing to have conversations with the Town.

Commissioner Partee said I'm very impressed with the fact that they have 13 properties already listed in the back and so that gives me confidence that they are very secure in their product. You have 80 percent women and 20 percent men, with 88 percent of the residents living alone. With that, I feel pretty secure that this residence is appropriate for the area. Myself being way above age 55 and still active and driving, I think this is some residences that we really need to have around in Huntersville. I like the idea. I like the way that it's set up.

Commissioner Phillips said you guys work off of the 60 percent median income. I was wondering how you guys update that over time. Is it with census data, is it yearly, are people grandfathered in?

Mr. Royster said the area median income is designated federally and is by the county and is updated yearly. In terms of the income limits, folks are reviewed every year. It's not really something you see in senior properties as much as somebody's income. There is a tolerance that if they met the income requirement on the day they first moved in and then they got a better job, they do encourage that and you see that some at the family properties, there is some tolerance for that to go up. You don't really see that at the senior properties, but that information is reviewed each year.

Commissioner Phillips said and it's case by case?

Mr. Royster said yes, everybody is recertified each year and they provide their income information each year.

Mayor Bales called on Scott Barnette, who had signed up to speak. Mr. Barnette was not able to establish connection to the meeting. Mr. Barnette sent in written comments. *Written comments attached hereto as Exhibit No. 5.*

Mr. Richard said going back to Commissioner Munger's question, we're in the 800-unit ballpark of age restricted units and we will firm that up if that changes significantly.

Commissioner Phillips said I know there's age restricted, but there's also affordable age restricted, and in my last two years the only thing that we have seen to have gotten was the ask out of Caldwell Station and that was 15-20 units.

Mr. Richards said correct.

Commissioner Phillips said can you recall anymore that came with income based age restriction?

Mr. Richards said not to my knowledge, but we'll dig into that as well.

Mr. Richards said Bellamoor at the Park. That was income based, roughly 130-140 units.

There being no further questions or comments, Mayor Bales closed the public hearing.

Petition #R21-14. Petition #R21-14 is a request by Mecklenburg County to amend the conditional district rezoning plan for their recycling facility at 12230 Statesville Road. The property is zoned Special Purpose Conditional District and the purpose of the amendment is to expand the boundaries of the active area of the facility.

Brad Priest, Principal Planner, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as No. 6.*

As was mentioned, R21-14 is the application for a conditional rezoning amendment for the North Mecklenburg Recycling Center. The applicant is Mecklenburg County.

The area in question here is just to the south of the intersection of Highway 21 and Verhoeff. The zoning already is Special Purpose Conditional District, so the modification would keep the zoning the same and just change the conditions of the actual plan itself, so the use would stay the same.

Just getting a feel of where this is and what's around it. You see the property highlighted here. To the north you have the CPCC Commercial Driver's License facility, the practicing and training area. To the east you have the Huntersville Athletic Recreation Center and then to the south you have some area of the Plum Creek neighborhood, single-family residential neighborhood, and then some vacant area to the south here.

Back in 1989 Mecklenburg County got this property rezoned to industrial type use and then that rezoning was revised in 1994. You will see back in the plan it had a condition where it established what was called Active Use Boundaries. Basically, all the activity of the landfill had to be within that active use boundary and it wasn't allowed to go any further. Along with those boundaries, you had 100' buffers to the east, to the north, to the south and of course you had lots of buffer to the south there toward the residential area. That was the existing rezoning plan and that's currently in place right now.

The application is to modify those active use boundaries to expand the operation of the facility a little bit. Essentially the areas that you see in yellow, more or less, are the area of the expansion of the active area and then to the south a little bit, there's an area that's used for miscellaneous storage. That would be on the plan as well.

Again, the current uses remain the same, just a little bit of an expansion of the boundaries that are currently in operation. I want to go through and just highlight some of the site comments and site recommendations that staff had. One of the site comments that we wanted to bring attention to is the applicant, Mecklenburg County, is requesting a modification to the required buffers and setbacks. Article 9.16 requires a 100' setback for the residential recycling facility use. They are requesting it to be reduced down to 80' in certain points. Where it is the 80', that would be to the north adjacent to CPCC here in the red; to the east adjacent to the Huntersville Park; and to the west here adjacent to Highway 21. In red you have the modification. In green, to the south, adjacent to Plum Creek, no modification is required. There's a setback of 420' of buffer and natural area there.

Staff is supportive of these modifications to the buffer. The 80' should be plenty enough to make an opaque screen. In addition to that, they are putting in a opaque privacy fence along this area to add-in screening. The areas of which the modification is requested is against areas of similar uses. Civic use again to the east, commercial civic use CPCC to the north, and then of course the highway. For the residential area, the less intense uses are being protected.

I just wanted to mention that the tree survey that was submitted was somewhat incomplete where staff can't immediately understand and show conformance to the ordinance specifically. Thirty percent of the specimen trees are required to be saved on the site. That includes trees like small trees like dogwoods, cherries or redbuds that are 12" in caliper and above. The issue is there are many trees that you can see on the tree survey, 18" trees, 12" trees. The species is not identified and therefore whether or not it's a specimen cannot be identified. Looking at the site as a whole, there are many specimen trees on the site. It's very wooded. Many of them are being saved, but to ultimately be able to specify here's the number and here's the 30 percent requirement, we can't determine that with the information that's been submitted. If the Town Board desires to have that specific number, we would need to get an updated tree survey to have that information.

Verhoeff Drive Connection. Back in 2017 CPCC, the Town and the county got together and discussed the future development of the uses of the corner of 21 and Verhoeff. It was agreed that it would be very beneficial to not have direct access long-term to 21, but to have access to these facilities from the back, from Verhoeff Drive, considering some of the stacking issues that were taking place on 21, but then also the future of 21 being a divided highway and access potentially being restricted.

When CPCC developed the corner, they went and did their part by putting in some infrastructure in the back that was built to public street standards with the anticipation that the truck facility and in the future this facility here, the recycling facility, would use it as access. In the expansion plan, the initial connection here from the county is no longer on the plan. The county has determined, we understand, that specifically that the logistics and the flow of the development right now is such that it's better to just have access on 21. Staff just wants to make that a comment and have that as a recommendation that it would be beneficial in the future.

The Huntersville Gateway Plan, the 2020 Huntersville Bike Plan, calls for the area in question to have a Town greenway coming through the property. If you see here, there's a greenway plan to come up north through one of the streams and then going to the east to the Huntersville Athletic Park. You see here in the top right that greenway in green is shown here in that area. Staff would recommend that Town greenway be accommodated for either with easements or some type of reservation or at the least perhaps maybe even a note on the plan in a general sense saying that the county would agree to work with the Town to establish those greenways when they are eventually designed.

Another specific aspect about this plan, the Plum Creek neighborhood has been very active in voicing some concerns in the past about potential nuisances from the facility – noise, lights and smells and those types of things. The county has been working diligently to address those concerns and had a second neighborhood meeting with the neighborhood and had a good discussion about those things. The site plan actually does incorporate some of the tools that were used in an effort to accommodate some of those concerns. You will see here to the south of the property, a proposed noise abatement berm and a noise wall is proposed just to the south and in between the proposed expansion and the residential there to the south.

Staff recommends approval of the application. Again, it's consistent with the 2040 Huntersville Plan. There's not really a change of intensity per say, but it's just taking the existing use that was approved and in operation since the late 80's, modifying it, and expanding it to a certain degree, so staff recommends approval of the application.

I know several staff members from Mecklenburg County are here to speak as well on the application.

Commissioner Boone said did anybody check on the stonefly?

Mr. Priest said we did check on the stonefly when the application originally came in and we did get word back from the county that the development on this site would not affect the stonefly and the adjacent property. The drainage of the area would not have an impact on it.

Commissioner Kidwell said thank you for the excellent presentation. You addressed one of the concerns I had and that was the stacking on 21 right there, especially on Saturdays. I know there's a police officer out there trying to help direct individuals in and out of that facility, so potential connection to another road one way in, one way out, would be very beneficial to the facility and the future roadway there.

Commissioner Kovacs said I saw that the proposed buffer between the neighborhood and the facility would be 420'. What is the current buffer?

Mr. Priest said I don't recall exactly what it is, but 400' plus whatever this distance is here, so probably another 150' I would say in that area. It's being reduced down to no less than the 420'.

Commissioner Munger said will the applicant be making any sort of presentation and/or do we get to ask questions of the applicant after?

Mayor Bales said that was my intention. Mr. Priest, the applicant is with us, correct.

Mr. Priest said I cannot see all the participants. They were planning to come, several Mecklenburg County staff members, and they sent me a PowerPoint, so my assumption is yes they are here with us.

Commissioner Munger said on the tree save, I do understand what you are saying about the specimen trees not being specified. According to the ordinance with the 30 percent specimen tree, hypothetically if we said every single tree there is a specimen tree, would they be in compliance with the 30 percent?

Mr. Priest said there's ways that you could come up with a worst-case scenario where you would try to accommodate it the best you can without surveying and having the species of each of them. I think if you are dealing with a percentage, number one to have accuracy you have to understand how many

specimens there are in total. However, if they counted the smaller trees that were removed as specimens but in the ones that they save the small trees were not counted as specimen and not saved, then you would have potentially the worst-case scenario where you are not calling small specimen trees that are saved specimens when they may not be, but you are counting them as specimen trees when you are removing them. If you updated the calculation that way, it would be better, but it's not possible to have complete accuracy unless you have all the specimens identified.

Commissioner Munger said that's a great way of explaining it and it makes perfect sense to me.

Commissioner Partee said will we be receiving an updated tree survey?

Mr. Priest said staff has commented on the plan and requested it. We haven't gotten that back at this time. Again, just from the tree survey it looks like it's very likely that they are conforming, but I don't know if the applicants are proposing to update that or not.

Commissioner Partee said also, with the Plum Creek community, are they receptive to the proposed buffers of the noise abatement?

Mr. Priest said we had an updated neighborhood meeting, the applicants did with them. There seemed to be some positive response from that and the summary and the questions and the discussion from that meeting was included in your agenda packet and I think there was some positive discussion. I have not received any complaints or feedback from the neighborhood personally by email or phone since the application has come back up, so I interpret that as some positive feedback.

Commissioner Partee said just one other question about the odor. Has that been rectified and corrected? It was mentioned that there was an odor that was coming from the dump.

Mr. Priest said I would probably let Mecklenburg County get into that. There was some discussion about potential changes to the site in regard to the mixing and where the mixing of the mulch and so forth would take place, the hours of it, and then some mitigation techniques that they use in other parts of the county, taking place on this site, but that was a discussion that hasn't been incorporated into the plan. I do not know if that's the case yet or not.

Commissioner Phillips said when was Plum Creek built?

Mr. Priest said that is a great question. I want to say mid 90's. Perhaps someone else on staff who has some better knowledge of residential could chime in on that, but I'm wanting to say mid 90's.

Commissioner Phillips said I'm long-term thinking that the center came before the neighborhood.

Mr. Priest said I'd be happy to research that after this meeting and get back to you.

John Carmichael said I'm working with Mecklenburg County on this rezoning petition and with me tonight are Jeff Smithberger, Director of Mecklenburg County Solid Waste Management, Joe Hack of Mecklenburg County Solid Waste Management and Matt Edwards of Kimley Horne and Associates. They are supposed to be with me and I'm very hopeful that they are.

Mr. Carmichael said as Mr. Priest indicated pursuant to this application, the county is requesting an amendment to the conditional rezoning plan for its facility located at 12230 Statesville Road to

accommodate an expansion of the boundaries of the active use area on the site. The site is a little over 25 acres and it's zoned Special Purpose Conditional District and that's an aerial photograph of the site. I'm going to turn it over to Mr. Smithberger now and let him walk you through some of the finer points of the presentation.

Jeff Smithberger, said I am your director of Solid Waste for Mecklenburg County. Our Solid Waste Division is part of the Land Use and Environmental Services Agency called LUESA. I'm here to talk to you tonight about the expansion of our North Meck Center facility. *PowerPoint attached hereto as Exhibit No. 7.* The Center has operated for the past 30 years and it's quite frankly now time to upgrade to better accommodate our customer needs as well as working toward increasing material separation and overall waste reduction that we need for the facility. We've had this expansion plan for the last couple of years. We may differ a little bit about the decision to use or not use the other road at Verhoeff, but quite frankly the property where that other road would come in is controlled by both CPCC and the athletic folks and it is not controlled by Mecklenburg County. We've had some difficulties working through that part. We've committed to place a stub out to connect to a future road, but we also heard loud and clear from our very first meeting that we had with the nice folks at Plum Creek that you really didn't want that road to exist to come back through there, which is another one of the reasons why we have concentrated on putting turn lanes in to the opening of our facility off of Statesville Road. I know there was some discussion here earlier tonight about traffic backing up, but we have made interior modifications to our traffic plans. We've installed what's called an express lane for people that don't have to pass crossing our scales or our weighing sites and so those people come in and use our facilities. I'll call it sort of unrestricted and so we have not had any back-ups onto Statesville Road in the past two years. And incidentally during the pandemic we saw about a 20 percent increase in use of this Statesville Road facility from the good folks in the Huntersville area because as they were staying home, they were also cleaning up more things and bringing more things to our facility. One of the questions I'm sure you will ask is about why do we want to expand this full service center. I heard one person refer to it tonight as the dump. I can assure you it's anything but a dump. Nothing stays at this facility. Everything gets transported back off of it at some point in time by someone who's either reusing it or recycling it.

We have a three-phase development plan. Phase 1 has already been constructed. We added a new office facility to this property within the existing use boundary. We opened it in April 2021 and it gave our workers at the site access to facilities that are accommodated or necessary for the Americans with Disabilities Act, as well as providing more modern facilities for training of our staff. Phase 2 as you see here sort of in the aqua color, will be the installation of a canopy that will house infrastructure under it where residents will come and recycle many things. It also allows us to keep those things out of the inclement weather. Behind that immediately you will also see where we've talked about the noise wall and the berm. We are planting and committed to plant hundreds of evergreen trees back here behind this to screen ourselves from the neighborhood because one of the things that you will find is that we are Mecklenburg County and we are answerable to both you as a Board as well as my board of county commissioners, as well as all county residents, so we pledge to be the best community stewards that we can possibly be.

We have shown a rendering that shows the site line between us and the neighboring folks at Plum Creek. The berm that you see is going to be earthen on the backside which is what residents or anyone across from us would see and then on the front side it would be comprised of concrete as a retaining wall. That is meant to reflect sound back away from any residents that we have. Along that we have also talked about installing an odor control system, which is similar to the one that we installed at our 60-acre compost central facility, which is down around Valleydale Road more in the central portion of

the City of Charlotte. We had similar odor complaints there from people that don't like the smell of the wood processing that we do. We are not burying anything on site nor are we adding any chemicals to it, it's just the natural earthy smell of wood and leaves as they come in, get ground and then get hauled away.

Next slide which is the south section site line. It looks very similar. It shows what it would look like to someone that is in the neighboring area of Plum Creek looking across the valley where the existing topography has the creek down in the valley and then our facility. Notice we have a top of a shed which will also work to serve to reduce the noise that we have in capturing and funneling noise back down towards the noise wall.

This is a picture of the office building. It is a facility that houses the maintenance and supervisory staff that we have. It also has small lunchroom and washroom facilities for our employees that we have out there. Before we constructed this facility, we only had one flushing toilet on the entire site and the majority of our staff had to use port-a-johns and port-a-potties and so we have now upgraded to something that is much more modern than any of the infrastructure that we had before.

This slide shows what our Compost Central facility looks like and this is what the canopy will be at this facility. All of our facilities are going to have a very similar type design. We are also constructing another new facility down in the Steele Creek area of Charlotte and it will also use a similar canopy. We have found that these are very flexible, allow us to store and move materials under them while keeping things out of the weather. They will also have compactor units in the front, similar to what these compactor units are where residents can come and recycle cardboard and similar items. The bagged waste would go into those cans as well as recyclable materials.

This slide shows a bit of a close-up of what happens under there. For example, our staff collects televisions for recycling. TV's are not allowed to be thrown away in landfills in the great state of North Carolina so we have to recycle them. Our staff has to stack them on pallets, wrap them in plastic shrink wrap, keep them out of the weather and those get hauled away for proper recycling.

One of the enhancements that we will want to do at this facility up at North Meck is add the same things that we are adding to our other facilities. Things like book recycling and Styrofoam recycling. All of those type of activities will occur underneath the covered shed that we have. The wall would then be immediately behind that with the noise berm shielding us from noise to the local community.

This is part of a larger future capital improvements plan that Mecklenburg County Solid Waste has for entire Mecklenburg County. We are adding about 60 plus million dollars of infrastructure to plan for growth in our community over the next five to six years. This includes additional facilities, expansions of facilities like this one here that we are meeting to talk about tonight, but it also includes other facilities that are outside of the Town of Huntersville.

If approval is granted by the Town of Huntersville for this, we will start to develop the detailed design drawings that we need for this, working with NCDOT and roadway enhancements and turn lanes. We have committed to add sidewalks in front of our facility that will align with other sidewalks that are already there by the CPCC facility and for future needs. We expect this to probably take about 2 years to complete all phases of our projects.

I want to pat ourselves on the back a little bit and let you know that we do want to be good neighbors. Mecklenburg County Solid Waste, we are the only solid waste organization in the entire state of North

Carolina to have an Environmental Management System with state approval. What an Environmental Management System means to us is that we constantly review the things that we are doing to be good stewards to the environment. We have annual external audits to review this environmental compliance and stewardship and we are proud of our record of being able to continually exceed all permit requirements.

If you or others want to get in touch with us, we are here to answer questions both tonight and then if anyone has questions, they can write in afterwards. We have a general solid waste email. We also have our robust Wipeout Waste website where we talk a lot about recycling and waste reduction here in Mecklenburg County.

I will conclude my remarks tonight, but I would like to thank my project team. We are behind in doing this project partly because of COVID. Brad was right, we met back in 2017 to talk about this project and it's now 2022. We are long overdue and need to expand this facility in order to accommodate the growing needs of our community.

Mayor Bales said thank you. Does anyone have any questions for the petitioner.

Commissioner Boone said in speaking with neighbors, they say the smell is still an issue when you start grinding these leaves and things, it goes over to Toka Court and that whole Plum Creek neighborhood. But it was brought to my attention that you have two different types of grinders and it seems like the lower speed grinder is the quietest. Is that the one that you are going to be putting in there.

Mr. Smithberger said Mecklenburg County has seven grinders right now and we have what's called a slow speed as you are aware and we have a higher speed. The good news is that the slow speed is quieter. The bad news is, it will not grind everything that comes into our facilities. It grinds the smaller materials, but it won't grind the larger materials. At this time our commitment is that we will use the slow speed to the maximum extent that we can, but there will be sometimes that we have to mobilize and bring in our larger, higher speed grinder to grind up some of the larger pieces of wood and material that we get. That will be probably 30 percent of the time. We also believe that constructing the noise wall, which isn't there now, will meliorate 90 percent of any noise that they hear. They will have to build that. You have our commitment that we will continue to work with you and the community on that, but it's to my advantage to be the best neighbor to this community that we can possibly be. We will structure our operations to be the best that we can be, but there will be sometimes that we may be heard when we do grinding. Our hours of operation are 7 a.m. to 4 p.m. We never grind before 7 a.m. We never grind after 4 p.m. The only time that would occur is if we reached a state of emergency here in Mecklenburg County – ice storms, hurricanes, tornadoes, whatever. This facility is designed to be able to help your community recover from that type of disaster. We realize that normal daily operations are different from times of emergency, but our equipment and our systems are geared for that type of emergency situation for all of our communities.

Commissioner Boone said you said the start time is 7 a.m., but some of the residents say that it's as early as 6:30 p.m., 6:15 a.m. your folks are getting ready for the day's work and backing trucks up and we all know the sounds that they make and if you could be a little more respectful of their time, I would appreciate that. My final question comes from 2017 when the Verhoeff Road cut-through through the CPCC property was discussed. Is that road, if it does go through, will it go all the way over to Chickasaw Drive in Plum Creek, because there's a stub there at Chickasaw.

Mr. Smithberger said that would not be a decision for my group. That would be Town of Huntersville decision.

Mr. Priest said there's no official plan to make the connection at Chickasaw. The recommendation from staff at this time was only concerning the non-residential development from CPCC to the Recycling Center.

Commissioner Munger said my question is related to the staff recommendation. What I read there, there are three recommendations from our staff and I'm just wanting to get some clarification on some of it. The first one is probably going to be the most difficult. Adding a rear connection to Verhoeff Drive and one of the things that you had mentioned is it's somewhat difficult in dealing with CPCC and acquiring the land around Huntersville Athletic Park. Did I understand that correctly?

Mr. Smithberger said yes, sir. Mecklenburg County does not own that property.

Commissioner Munger said it doesn't?

Mr. Smithberger said no, sir.

Commissioner Munger said when I'm looking at it, and I'm using POLARIS as my point of reference, and it does say Chronic Disease Mecklenburg County, are you familiar with that entity?

Mr. Smithberger said I am not.

Commissioner Munger said that's something I'll have to get back to then, because my understanding and Brad or Jack, if one of you could tell me, it was an understanding with CPCC when they built that facility that we would be able to acquire or use that land to build this potential connection. Am I stating that correctly?

Mr. Priest said it was a discussion of the county and I'll have to understand exactly who owns the Huntersville Park property, but I believe there's a county entity that does control the park. What I do know specifically is that CPCC platted a public access easement through their property along the driveway that they built to the southern property line where the Parks & Recreation property line comes. The idea was at some point Mecklenburg County having the ability to work on that park property to make the connection to that easement that was established by CPCC.

Commissioner Munger said as far as we can tell it's a matter of Mecklenburg County needs to talk to Mecklenburg County about being able to acquire that land and use it for a road.

Mr. Priest said we believe so. That was the understanding.

Mr. Smithberger said I'd also like to add that when we at Solid Waste discussed it, we never talked about this in terms of this being the entrance to our facility. We were very clear about that. The Town of Huntersville when we talked to Mr. Priest made it very clear that they did want it to be more of an entrance to your facility. At the time we were not talking about doing any increases in width or turning lanes to Statesville Road. We now have gone back and looked at it and believe it's much more beneficial at this time to put those turn lanes into Statesville Road and continue to work with NCDOT as they continue to plan the expansion of that road for that to continue to be our main entrance and exit from the site. We have said that at any time that a road is built or can come through we would consider

having an emergency egress/ingress at that site, but it wrecks the flow of traffic through our site having that to become an ingress point.

Commissioner Munger said just one more comment on it, one of the other things I had heard stated was that the residents of Plum Creek were not in favor of that extension occurring. When I looked at the map, one of the things that I noticed is the stub to the potential Verhoeff was set back quite a bit from the actual edge of your property. If I had to guesstimate it would probably be about 650' away from Plum Creek itself, which is about 1/8 mile. Does that feel accurate?

Mr. Smithberger said I'd have to look at a map with you to see exactly where you are referencing. Are you talking about the edge of our property to them or.....

Commissioner Munger said the stub itself.

Mr. Smithberger said one of the other concerns that we had about the stub, frequently in other places in Mecklenburg County, stubs like that become a haven for unwanted activity and illegal dumping and we were also not in favor of putting the stub in there for that purpose.

Commissioner Munger said it is all your property, so I would assume that you would want to make sure that nothing like that happened on property owned by you.

Mr. Smithberger said again, it makes it very difficult to enforce that. We would have to lean back towards the Town of Huntersville Police Department to try to assist with any enforcement of illegal dumping that occurred there after hours. It's just another difficulty that.....it was not something that we believed in terms needs to be done. We do not have any back-up problems on Statesville Road at all. We haven't had any for the last two years.

Commissioner Munger said at present time. We do have a lot of growth coming.

Mr. Smithberger said as I have said and committed to is if the road ever gets built and finished through there, we have no problem in hooking to it. But one of the things that was a sticking point between us and CPCC is who takes care of the maintenance of that road. Who takes care of the snow removal of that road. If there's an accident, where does the liability fall. We have stumbled in being able to work out the details of perfecting a lease agreement with them to use this for access purposes because of those types of things and others.

Commissioner Munger said hypothetically that road is built in and it runs from Verhoeff all the way to their property. At what point would it be ceded over to the Town and become the Town's responsibility.

Mr. Priest said it could be done rather fast if it's built to public street standards as CPCC did. They would petition for it to be inspected and just go through the process to be taken over by the Town as a public street.

Commissioner Munger said are things like maintenance, snow removal.....we take care of that?

Mr. Priest said it would be after it's given to the Town. For the county's benefit I would echo the sentiment that at the time when CPCC came in to construct the driveway, they didn't want to go through the process at that time to do a public street, because it was going through the process would

have been time intensive, so they said let's do the easement for right now and then the public street can come later once it's connected afterwards. That was my understanding of the connection timing at that time. But to your point, yes, if it was given to the Town as a public street, then maintenance would not be an issue there later on.

Commissioner Munger said my understanding right now is we have a tree survey that says 12" tree as opposed to 12" oak or 12" cherry. Do you have plans on updating the tree survey?

Mr. Smithberger said yes.

Commissioner Munger said provide 30' easements along applicable stream sections for future Huntersville greenways through the property or adding a note stating that the county commits to work with the Town to locate the trails on property once designed. Is that something you'd find agreeable?

Mr. Smithberger said generally, yes.

Commissioner Munger said any comment you want to add to that, just so I understand the generally.

Mr. Smithberger said we work closely with our Park and Rec group as well and as I understand it this particular alignment does not align with what is on the county plan and so apparently there is a difference between a county plan and a Town of Huntersville plan. We want to try to keep everybody happy but one of the problems is that if you put a specific delineation at this particular point in time, it sort of kind of locks it down and so if you put a generic description of we will work together to mutually agree upon where said trail would be, that kind of thing we have no problem with.

Commissioner Munger said Brad, to me that sounds reasonable. Does that sound reasonable to you as well.

Mr. Priest said yes, absolutely. That was part of the recommendation as well, a general commitment to work together to make it happen and that's fine.

Mr. Smithberger said I just want to point out to this group tonight, that trail would run through the buffer area between us and the homes and so I heard from some of the folks that live in Plum Creek that said that they were ambivalent about having a trail with strangers walking through it behind their homes, so that may be a discussion for another time and another place, but while many people like greenways, when it ends up being behind your house sometimes you might not like it.

There being no further questions or comments, Mayor Bales closed public hearing.

OTHER BUSINESS

Petition #R21-10. Petition #R21-10 is a conditional rezoning application by ADE 883, LLC to rezone 10401 Hambright Road (Parcel # 01740103) from Corporate Business to Corporate Business Conditional District. The purpose of the rezoning is to reduce the planting requirements of the 40' CB buffer. The property is located east of the intersection of Patterson Road and Hambright Road.

Commissioner Boone said I requested this, along with Commissioner Phillips, to be brought back onto the agenda for tonight's meeting. Before I get started, I would just like to know if staff wants to put their report into the record at this time or after my presentation.

Brad Priest, Principal Planner, said what I'll do is I'll wait for you for your opening remarks and then afterwards I'll take care of the slides and do it all at the same time.

Commissioner Boone said I would like to start with the history on this Hambright/Patterson Road area. Back on January 16, 2018, the Town made a major investment of \$1.6 million to improve the entrance to Patterson Road and Hambright Road with road improvements, water improvements and gutter improvements and just basically reading from the minutes from that meeting, the economic development incentive was presented by Gerry Vincent, the Town Manager and he explained the request is related to a new manufacturing facility that has not been announced or its location. This is not a tax incentive plan but an infrastructure incentive plan at \$1.6 million for road improvements. It is to align an existing road as well as land acquisition of sidewalk improvements, also water line extension. The motion was made. It passed 4 to 2. The Town has invested money and at that point I will let you do your report.

Mr. Priest said I'll go ahead and put the Staff Report into the record at this time. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 8.* This is essentially a reconsideration of NorthChase at the Park R21-10. The site is here on the north side of Hambright Road near the intersection of Patterson Road and Hambright. On the 18th the rezoning application was denied or not approved to reduce the planting requirements required in the ordinance. This was the landscaping plan that you see in front of you where the applicant was proposing view corridors to be able to not have an opaque buffer but to have a buffer that was only opaque in sections in order to allow visibility to the architectural elements of the nice building that they were going to put in. But that application did not pass on the 18th, so the applicant sent in a new landscaping plan that you see here in front of you. The darker bluish-green dots are the existing evergreen trees that they are pointing out. The light green dots that you see are new evergreen trees that are proposed here and so with this new landscaping plan the numbers were updated. Staff updated the numbers, so you see on the lefthand side what's required by ordinance, the plan that was disapproved here in the middle, and then the updated landscaping numbers here on the right. They increased their evergreen trees by 18. They reduced their large maturing trees a bit and the shrubs of course are the same.

Commissioner Kidwell said a couple of points of clarification, so what Mr. Priest just showed is not in our packet. I'm looking through my packet here, I don't see the updated planting requirements. The page in my packet still has the November 22, 2021 information, so I kind of feel like we weren't given everything. A couple of other things I just want to kind of go over here. When I talked to a couple of commissioners about this property, they were like if we don't approve this, they are just going to build it right up on the road like Lake Norman Charter Elementary School did. Do we want that in that area. I went out and measured how far Lake Norman Charter Elementary School is from the side of the road. It's 75' from the edge of the road and we are talking about making this 40', so it would be half the distance. I don't know if anyone else went out and measured it, but I thought I would because why not do our due diligence. Also, if they were to put this 40' off the road with a parking lot stated here, I don't see this as an improvement to the area, it doesn't mesh with the area, but also this is about needs and wants. The applicant wants to put up pretty signs for a business to come in, but I'll tell you the business is going to be more concerned about if they can get their trucks, their 18 wheelers in the back unloading docks and how many parking spaces they've got up top to get their people in and their customers to come see their facility. I've been looking at facilities for going on 6 months now for my current company and I'll tell you, it's been more about access than where we can put a sign up so people can see, because every one of these doors is going to have the address dash a, b, c or d, depending on who rents out and how much square footage they rent out. It's going to be less about putting up their sign and more about

what they can do inside the facility to pay the \$550 to \$750 a square foot rent that it's going to cost. I'm not a fan of granting the applicant approval, as I wasn't prior. I think we're talking about a facility that's ¾ mile from Patterson Road, so it's not next to Patterson Road, it's not even 500' away. It's ¾ mile from a road that the Town did invest over \$1 million in to get a company down here. That road I don't even believe connects to the current business park. I think it stubs out right past that company, or at least it did about a year ago when I drove it. We've got to look around what's in the area and we've got horse farms right across the street. We've got more rural housing out there and due to the watershed issues, we are not going to see anything like this pop up across the street or further development down that way. I am not in favor as I wasn't on the 18th, the last time we heard this and that's kind of where I'm standing.

Commissioner Kovacs said with what Commissioner Kidwell mentioned how Lake Norman Charter Elementary is, I think he said 75' off from the road. If this were to be built with the same set up, is that the minimum distance that it would have to be off the road, the 75'.

Mr. Priest said it would be similar. I would have to go back to look at where the school actually is because I'm not exactly sure. I can look that information up. It would be similar. That's correct, because of future right-of-way and build to line from future right-of-way it would be back there.

Commissioner Kovacs said as it sits right here on this screen, what would be the distance from the road to the actual building.

Mr. Priest said I'd say maybe 125' give or take in this position right here that we are looking at.

Commissioner Kovacs said I wasn't in favor of this on the 18th and I am very much appreciative of the additional trees being added and their willingness to do that, but I'm still not comfortable with the buffer more so because it was 80' and it recently has been reduced to 40', but we are still having to look at decreasing something that we recently just did and I worry about setting a precedent where we don't follow our own ordinances that we recently modified. That's just kind of where I'm at on this.

Commissioner Munger said I just had a general comment. Obviously the first time through I voted against this and when I did hear that it was coming back, I was concerned that it would be the exact same thing coming back. But looking at this and seeing that the evergreens have been added, the opaqueness has been enhanced, for me what it does is it indicates that we are working more in spirit with the actual ordinance in trying to make it so that we have a nice opaque buffer and having the evergreens there that will block it out, definitely makes it more appealing to me and I think to Commissioner Boone's point, when we did pass the resolution or what have you, to make Patterson Road more appealing to enhance that area to make it more inviting to light industrial. This is what we were trying to get. This is the type of businesses we're trying to get. I often have said I hate the idea of Huntersville being referred to as a bedroom community. We are not a bedroom community. This is an area where we should be able to work, live, play and eat. I want to be able to do all of those things in Huntersville. We should not be dependent upon we just live here, we go to Charlotte and work, eat and do all those things, then we just come home and stay in our houses. We need to be able to be a thriving community with a wide variety of options for everything that anyone needs to be able to do and I think this takes us closer to that point, so I will say that I'm in favor of this new proposal.

Commissioner Partee said I made the motion last month to approve this resolution and I spoke to Commissioner Boone and are in agreement with this project.

Commissioner Phillips said I think it's important because my name is beside Dan's on this, that I was against it previously, however I really do appreciate that the applicant took our concerns and actually materialized something with that. I am not used to seeing that out of people and I thought that was very promising. I also want to note that we do like to brag on ourselves as somewhere you would work, live, play, much to like what Commissioner Munger said, however we need to be mindful of making sure that we are bringing jobs to our community and while I have said no to a lot of things, I am honored to say yes to this and I appreciate Commissioner Boone for leading the way on this and for getting the citizens more than they were offered and I appreciate the applicant for being empathetic and for listening.

Commissioner Boone made a motion in considering the proposed rezoning Petition R21-10, North Chase at the Park, the Town Board recommends approval. The Town Board is aware of and consider the Planning Board's recommendation and all relevant portions of a 2040 Community Plan including policies LU-1.1, 5.1, 7.1, 11.1 and 11.2., the Town Board finds modifications of the buffer requirements reasonable considering the increase in architectural standards as modeled on the rendering as provided to the staff report. The submitted elevations are attached as conditions to the approval and are critical part of the rationale for granting the modification of the buffer requirements and approving the rezoning. The proposed building type provides employee and customer parking in the front and requires rear load docks. The Town Board has considered the parking visibility in our discussion and as a condition of approval requires 100 percent screening of all automobiles on the street side by shrubs and trees with a minimum of 7' to 8' for tree height that mature in a period of three years. This will meet the intent of the cars not being visible from the street. It is reasonable and in the public interest to approve the rezoning so that we can find an adequate compromise between the save tree requirements, aesthetics of the building and the spirit of the ordinance regarding what should and should not be visible.

Commissioner Phillips seconded motion.

Commissioner Kidwell said as I look through the packet that we received, just so Commissioner Boone is aware, the road improvements are still not set up, the planting that was just presented to us was not presented to this Board in this packet. There seems to be a lot of information missing from the packet for us to make a decision. I would encourage the Board to vote against this. And as I told Commissioner Boone, and I'll tell all my fellow board members, I have no problem with anybody from this Board ever bringing something back for discussion and I think that's a great thing. It's a great part of our process, but we are bringing something back and about to potentially approve it that, let's be honest, warehousing, light industrial doesn't need a big sign on the front, they just need to have the space and we are missing a lot of improvements that staff has asked for in this packet that the application and developer has not presented.

Mayor Bales called for a roll call vote to approve Petition #R21-10.

Commissioner Boone – Approve
Commissioner Kidwell – Deny
Commissioner Kovacs – Deny
Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

Motion carried 4 to 2, with Commissioners Kidwell and Kovacs opposed.

Interlocal Agreement – Cabarrus County. This item is an interlocal agreement, similar to the one we have with Mecklenburg County, for the collection of taxes for Huntersville parcels in Cabarrus County. The Town will compensate Cabarrus County a fixed rate of \$2.00 for each Town bill generated by the County. The recently approved R21-03 Skybrook Billings rezoning will add approximately 19 parcels to the Town within Cabarrus County. Cabarrus County commissioners will be voting on this interlocal this month.

Commissioner Munger made a motion to adopt an interlocal tax collection agreement between the Town of Huntersville and Cabarrus County.

Commissioner Phillips seconded motion.

Mayor Bales called for a roll call vote.

Commissioner Boone – Approve
Commissioner Kidwell – Approve
Commissioner Kovacs – Approve
Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

Motion carried unanimously.

Agreement attached hereto as Exhibit No. 9.

Resolution Not to Bill or Collect Minimal Taxes. This resolution states the Town's desire for the Tax Administrator of Cabarrus County not to collect taxes for which the cost of collection exceeds the amount collected.

Commissioner Kidwell said do we look at the net on that. Let's say you've got some that are negative or \$5 or \$1 or whatever and it adds up to let's say \$50,000 total, is that something they look at when they decide this.

Bobby Williams, Assistant Town Manager, said I'm going to defer to Jackie on that. I believe it's just individual bills. Right now we are only talking about 19 parcels, so that will vary.

Jackie Huffman, Deputy Town Manager, said my understanding is the individual bill. If one taxpayer owes 1,000 bills, they don't accumulate them, it's on an individual parcel.

Commissioner Munger made a motion to adopt Resolution not to bill or collect minimal taxes.

Commissioner Phillips seconded motion.

Mayor Bales called for a roll call vote to adopt Resolution.

Commissioner Boone – Approve
Commissioner Kidwell – Approve
Commissioner Kovacs – Approve

Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 10.

Resolution – Declare Surplus Equipment. Staff requests the Board declare the existing 30/40/50 MVA transformer at the Town's delivery #3 substation as surplus and allow bids to be obtained to sell the transformer to the highest bidder.

Commissioner Kidwell said just a comment. This was on the Consent Agenda and moved up by the Town Manager, yet it meets the same definitions that we discussed earlier about Consent Agendas, so I'm seeing a double standard here.

Mayor Bales said I am happy to jump in there because I talked to Mr. Roberts about this particular item. I thought that there might be questions about the sale of this transformer and what we are going to be doing with a replacement etc., to have more of a clear well-rounded picture and understanding of why we were doing what we were doing. In our conversation as we were talking through the agenda, I said I think somebody might have a question around that transformer. I know I would.

Commissioner Kidwell said with all due respect Madam Mayor, that's one person making the decision for the Board when the Board should have been able to vote on the whole thing.

Mayor Bales said the Board was welcome to ask for it to be moved back to the Consent Agenda as well, but nobody brought that up. I felt that somebody might have a question around it.

Commissioner Munger said can you give us a little bit of history about this particular transformer. Why did we end up having this as a possible surplus, because it sounds like if it's something that we are going to sell, was it ordered by mistake, was it the wrong size – why do we have this that we are able to sell it and still make money off of it. I assume another one is coming in to replace it.

Don Mitchell, ElectriCities Director, said the transformer was purchased in 2017. Unfortunately, the engineer specified the wrong voltage on the transformer. While it's in service right now, the voltage coming out of it is marginal. It's working, but it won't work long-term. The engineer's Errors and Omissions Insurance has purchased a new transformer for this substation. It's to be delivered this spring and part of the agreement with the Errors and Omissions Insurance is that the Town would sell the existing transformer and give the proceeds from that sale to the insurance company.

Commissioner Kovacs made a motion to approve the Resolution to declare transformer at delivery #3 substation surplus.

Commissioner Boone seconded motion

Mayor Bales called for a roll call vote to approve Resolution.

Commissioner Boone – Approve
Commissioner Kidwell – Approve

Commissioner Kovacs – Approve
Commissioner Munger – Approve
Commissioner Partee – Approve
Commissioner Phillips – Approve

Motion carried unanimously.

Resolution attached hereto as Exhibit No. 11.

CONSENT AGENDA

Commissioner Phillips made a motion to approve the Consent agenda. Commissioner Munger seconded motion.

Mayor Bales called for a roll call vote to approve the Consent Agenda.

Commissioner Boone – Approve
Commissioner Kidwell – Deny
Commissioner Kovacs – Deny
Commissioner Partee – Approve
Commissioner Phillips – Approve
Commissioner Munger – Approve

The following items on the Consent Agenda were approved by 4 to 2 vote, with Commissioners Kidwell and Kovacs opposed.

1. Minutes of the January 18, 2022 Regular Town Board Meeting.

CLOSING COMMENTS

Commissioner Kidwell said I don't really know what's going on. We never really took a real vote to attend these meetings virtually. Here we are on our second meeting, so I don't know when we are going to meet back in person. I know that many members of the Board have had opportunities to go out, get some photo ops around town with a mask, without a mask, so I think we need to lead by example and meet back in person at Town Hall at some point or at least let's hold a vote on it and also just looking forward to the 7th for these public hearings that we are going to have so we can have more individuals from the town come and listen and ask questions.

Commissioner Boone said if you would like to put that in a motion, I think that would be appropriate at this time. I think tonight is a perfect example of where we had someone from the public who wanted to speak and couldn't get through. That's just not acceptable.

Commissioner Kidwell said unfortunately we are in closing comments and not able to make motions.

Mayor Bales said I will also say that we'll have some additional conversations around that. I think that I have already asked Town Staff if they can get from the county our Covid numbers so that we know in our hometown that those numbers are going down from what we saw last time. I, too, hope that we can be in person as well.

Commissioner Phillips said we also need to have a conversation around if we go back to in person, does that end virtual for everybody unless in the case of someone having Covid, because it is under the Covid extended emergency.

Mayor Bales said we can certainly do that as we move forward throughout the week.

There being no further business, the meeting was adjourned.

Approved this the ____ day of _____, 2022.

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Kayleigh Mielenz

Date: March 7, 2022

Subject: S22-01 Birkdale Landing Special Sign District

EXPLAIN REQUEST:

Call a public hearing for Monday, April 4, 2022 at 6:00 p.m. at Huntersville Town Hall on petition S22-01 Birkdale Landing Special Sign District, a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Pkwy, Tax Parcel 00917184. This request is to remove the Planned Development Flexibility Option and establish a Special Sign District, so Firebirds is able to amend the Master Sign Plan to allow for a sign to be placed on a specific wall within the development.

ACTION RECOMMENDED:

Call the Public Hearing

FINANCIAL IMPLICATIONS:

n/a

ATTACHMENTS:

None

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Nathan Farber

Date: March 7, 2022

Subject: TA22-03 Clear Sight Triangle at Street Intersection ordinance revision.

EXPLAIN REQUEST:

Call a public hearing for Monday, April 4, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #TA22-03 Clear Sight Triangle at Street Intersection ordinance revision, a request by Town of Huntersville staff to amend articles 8.9.1 and 12.2.2 to comply with State House Bill 489 language.

ACTION RECOMMENDED:

Call the Public Hearing

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

None

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Nathan Farber

Date: March 7, 2022

Subject: TA22-04 Solar Energy Facilities Ordinance.

EXPLAIN REQUEST:

Call a public hearing for Monday, April 4, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #TA22-04 Solar Energy Facilities ordinance, a request by the Town of Huntersville Staff to amend article 9.54 to remove the special use permit requirements from Minor solar energy facilities and to bring language into compliance with 160D-914.

ACTION RECOMMENDED:

Call Public Hearing

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

None

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Kayleigh Mielenz

Date: March 7, 2022

Subject: TA22-01 Amend Zoning Ordinance to clarify the Down-Zoning definition and initiation of the process.

EXPLAIN REQUEST:

Conduct Public Hearing on Petition #TA22-01 Down-Zoning, a request by the Town of Huntersville Planning Department to amend Articles 11.4.3(a) Initiation, 11.4.9 When Development Not Begun Within 3 Years, and 12.2.1 General Definitions of the Zoning Ordinance to clarify the Down-Zoning definition and initiation of the process.

ACTION RECOMMENDED:

Conduct Public Hearing

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA22-01 PH Staff Report
2. 1. TA22-01 Down Zoning Application 12.30.21
3. 2. TA22-01_12.30.21 Update_Draft Ordinance - HOAB_01.06.22
4. 3. 160D Article_6

TA22-01 – Down-Zoning Text Amendment

PART 1: DESCRIPTION

TA22-01 is a text amendment request by the Town of Huntersville Planning Department to amend Zoning Ordinance Articles 11.4.3(a) Initiation, 11.4.9 When Development Not Begun Within 3 Years, and 12.2.1 General Definitions to clarify the Down-Zoning definition and initiation of the process.

PART 2: BACKGROUND

The North Carolina General Statutes were amended in 2019 by creating a new Chapter 160D. This new Chapter consolidated city- and county-enabling statutes for development regulations into a single, unified chapter. Local governments had until July 1, 2021, to adopt the necessary ordinance amendments to comply with Chapter 160D. At that date, the rules and procedures of Chapter 160D will apply whether or not the local ordinance has been updated.

Text Amendment TA21-01 was approved on 06/21/21 and encompassed the majority of amendments required to comply with 160D. TA21-01 did not include the updated language from 160D-601 that defines down-zoning and explains who can initiate the down-zoning of property. Therefore, the Zoning Ordinance requires a text amendment to ensure the language complies with 160D.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

TA22-01 is consistent with all policies of the Huntersville 2040 Community Plan as the amendment is necessary to comply with State Legislature.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment.

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) recommended approval (8-0) of the proposed text amendment on January 6, 2022.

PART 6: PUBLIC HEARING

March 7, 2022

PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board is scheduled for March 22, 2022.

PART 8: ATTACHMENTS

1. Applicant's Text Amendment Application
2. Ordinance
3. 160D Article 6

PART 9: STATEMENT OF CONSISTENCY – TA22-01		
Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA22-01, Planning Staff recommends approval based on consistency with all policies of the Huntersville 2040 Community Plan as the amendment is necessary to comply with State Legislature. It is reasonable and in the public interest to amend the Zoning Ordinance because it is necessary to coordinate the Huntersville Zoning Ordinance to comply with State Legislature.	APPROVAL: In considering the proposed amendment TA22-01, the Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)	APPROVAL: In considering the proposed amendment TA22-01, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
DENIAL: N/A	DENIAL: In considering the proposed amendment TA22-01, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)	DENIAL: In considering the proposed amendment TA22-01, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)



Text Amendment Application

Date of Application 12/30/21

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 11.4.3, 11.4.9, 3 Section(s): _____

see attached 12.2.1

Current Ordinance

see attached

Proposed Text

Reason for Proposed
Change

Update the definition of down-zoning to comply with 160 D. Update language on down-zoning initiation to comply with 160 D.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Town of Huntersville Planning Department

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: _____

Signature Kayleigh Miley Date 12/29/21

Title Planner I Email Kmielenz@huntersville.org

Address of Applicant 105 Gilead Rd, 3rd Floor, Huntersville, NC 28078

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: 12/30/21

Staff Initials: KIM

**AN ORDINANCE TO AMEND ARTICLE 11.4.3 (a) AND ARTICLE 11.4.9 OF THE
ZONING ORDINANCE TO CLARIFY DOWN-ZONING PROCESS CONSISTENT WITH
N.C.G.S. 160D-601(d) AND TO AMEND THE DEFINITION OF DOWN-ZONING IN
ARTICLE 12.2.1 OF THE ZONING ORDINANCE**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 11.4.3(a) and 11.4.3 (a)(1) Initiation of the Zoning Ordinance is hereby amended as follows:

.3 Initiation

a) Any amendment to the Zoning Ordinance text or Zoning Map, except for the classification of property to a conditional zoning district or MH Overlay **or to down-zone property as defined by N.C.G.S. 160D-601** may be initiated:

1) By the Town Board, Huntersville Ordinances Advisory Board, or the Planning Board on its own resolution;

2) By the property owner(s), upon filing an official petition, submitting the fee established by the Town Board, and providing a list of adjoining properties including tax parcel numbers and the name and address of each owner, provided in digital form if possible;

3) By someone other than the property (if not a request to down-zone property) owner following:

(a) filing of an official petition and submission of the established fee by the initiating party; and in addition, for a map amendment, providing a list of adjoining properties including tax parcel numbers and the name and address of each owner, or, for a text amendment, submitting the prepared text and rationale for seeking the amendment;

(b) preliminary evaluation by the Planning Board to evaluate consistency of the proposal with the objectives and policies of plans adopted by the Town of Huntersville; and

(c) determination by the Town Board whether the petition should be granted a public hearing or rejected.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 11.4.9 When Development Not Begun Within 2 Years of the Zoning Ordinance is hereby amended as follows:

.9 When Development Not Begun Within **2 3** Years

It is intended that property shall be reclassified to a conditional zoning district or a MH Overlay district only in light of firm development plans for the property. Therefore, two years after the date of approval of any petition for a conditional zoning district, or MH Overlay district, the Planning Board shall examine the progress made toward developing the property in accordance

with the approved petition and any conditions attached thereto. If the Planning Board determines that construction has not commenced in furtherance of the approved petition and conditions, the Planning Board may, at its discretion, initiate a rezoning to the general zoning district consistent with the most detailed plan adopted for the area which includes the property, according to the procedures of Section 11.4, Amendment Process **so long as the rezoning would not result in a down-zoning as defined by N.C.G.S. 160D-601(d).**

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12.2.1 General Definitions of the Zoning Ordinance is hereby amended as follows:

Down-zoning. ~~Down-zoning means a zoning ordinance~~ **Any amendment to the zoning ordinance or zoning map** that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town Board.

Section 4. That these amendments shall become effective upon approval by the Town Board of Commissioners.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: January 6, 2021

PUBLIC HEARING DATE: March 7, 2022

PLANNING BOARD MEETING: March 22, 2022

TOWN BOARD DECISION: April 18, 2022

Article 6.

Development Regulation.

§ 160D-601. Procedure for adopting, amending, or repealing development regulations.

(a) Hearing with Published Notice. – Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) Notice to Military Bases. – If the adoption or modification would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the local government shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than 10 days nor more than 25 days before the date fixed for the hearing. If the commander of the military base provides comments or analysis regarding the compatibility of the proposed development regulation or amendment with military operations at the base, the governing board of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance.

(c) Ordinance Required. – A development regulation adopted pursuant to this Chapter shall be adopted by ordinance.

(d) **Down-Zoning.** – No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 12, 50(a), 51(a), (b), (d).)

§ 160D-602. Notice of hearing on proposed zoning map amendments.

(a) Mailed Notice. – Subject to the limitations of this Chapter, an ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts are to be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Jack Simoneau

Date: March 7, 2022

Subject: TA21-15 Rooftop Amenity Spaces.

EXPLAIN REQUEST:

Conduct Public Hearing on Petition #TA21-15, a request by the Town of Huntersville Planning Department to amend Zoning Ordinance Articles 8.7 Height Limitation, 12.2.1 General Definitions, 4 Apartment Building Type & Shopfront Building Type, 7.10 Open Space, and 7.11 Urban, Agricultural, Common, Natural, & Recreational Open Space to allow and place standards for Rooftop Amenity Spaces to exceed the maximum building height.

ACTION RECOMMENDED:

Conduct Public Hearing.

FINANCIAL IMPLICATIONS:

n/a

ATTACHMENTS:

1. TA21-15 PH Staff Report_Final
2. 1. Application 11.22.21
3. 2. TA21-15 Proposed Ordinance Language_Update w Open Space_Final
02.08.22
4. 3. HOAB Minutes Combined
5. 4. October 7 HOAB Documents
6. 5. Occupiable Roof Criteria per Building Code

TA21-15 – Rooftop Amenity Space Text Amendment

PART 1: DESCRIPTION

TA21-15 is a text amendment request by the Town of Huntersville Planning Department to amend Zoning Ordinance Articles 8.7 Height Limitation, 12.2.1 General Definitions, 4 Apartment Building Type & Shopfront Building Type, 7.10 Open Space, and 7.11 Urban, Agricultural, Common, Natural, & Recreational Open Space to allow and place standards for Rooftop Amenity Spaces to exceed the maximum building height.

PART 2: BACKGROUND

- North State Development, LLC rezoned 9.94 acres through a conditional rezoning to TC (CD) (R20-03). The developer later contacted the Planning Department about adding a 750 SF rooftop amenity space on the top corner of a mixed-use building where Gilead Rd will meet Public Street A next to Town Center.
- The conditional rezoning for this project allowed a maximum building height of 52.5'.



Approved Rezoning



Potential Rooftop Amenity

- Article 8.7 states that no area intended for human occupancy can exceed the height limit of buildings (in this case, 52.5'). Therefore, staff advised the developer a rooftop amenity space for the mixed-use building would not be permitted because it would increase the building height past the allowed maximum of 52.5'. Staff also indicated rooftop amenities would be desirable in Huntersville and Staff would investigate the potential of a zoning text amendment.
- On October 7, 2021 Huntersville staff sought feedback from the Huntersville Ordinance Advisory Board regarding rooftop amenities. Attachment 4 contains the summary of the issues presented to the HOAB for discussion including a summary description of the issue and ordinances from other communities relating to rooftop amenities. The HOAB expressed interest in the possibility of a text amendment but wanted to see proposed ordinance language.
- An initial draft of the proposed ordinance language for the rooftop amenity space text amendment went to the HOAB for discussion on December 2, 2021. Several members expressed concerns with the text amendment draft language and staff indicated a final draft would be presented in January 2022.
- A final draft of TA 21-15 was presented to the HOAB on January 6, 2022. By a 4-4 vote, the Huntersville Ordinances Advisory Board did not recommend approval of TA 21-15. NOTE: Attachment 3 contains the minutes from the 3 HOAB meetings where rooftop amenities were discussed.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

- Policy LU-7: Require new development to follow design principles that reinforce the vision for the Town as expressed in this plan and other adopted plans. LU 7.2: Consider updates to the Huntersville Design Guidebook and/or Zoning Ordinance as needed to improve the commercial and multi-family design.

- Staff Comment: Rooftop amenities are typically found in in urbanized areas. The proposed amendment offers flexibility to rooftop amenities with limitations to minimize impact on adjoining residential properties.
- Policy LU-8: Emphasize form and flexibility in Mixed-Use Centers, Employment Centers, the Town Core, and Activity Centers. Policy LU 8.2: Evaluate and strengthen incentives to encourage the achievement of higher design standards.
 - Staff Comment: Each of these Future Land Use Character Areas allows for a mixed use and/or apartment building type in some capacity. This text amendment will provide greater flexibility for height regulations for mixed-used and apartment building types. The additional flexibility could act as an incentive for applicants to demonstrate excellence in design.
- Policy LU-11: Protect Existing Housing Stock. LU 11.1: Protect and enhance the unique character of Huntersville’s neighborhoods by using planning tools to safeguard from potentially negative impacts of development and redevelopment.
 - Staff Comment: The proposed amendment offers flexibility to rooftop amenities with limitations to minimize impact on adjoining residential properties.
- Policy DT 1.1: Encourage vertical mixed-use development with active visual engagement between the street and the ground and upper floors along Active Frontages. Policy DT 1.4: Consider revisions to ordinances, the Design Guidebook, and/or review and approval processes to achieve an elevated design in the downtown area.
 - Staff Comment: This text amendment has the ability to encourage developers of a mixed-use building type in the downtown area to provide a rooftop amenity space, creating visual engagement between the street and the upper floors of the building along the active frontage. Rooftop amenities are an attractive feature that add a touch of luxury to buildings.
- Policy DT 11.1: Allow and encourage residential development in Downtown Huntersville, including for-sale and rental housing integrated with commercial uses.
 - Staff Comment: This text amendment could encourage residential development in Downtown by allowing greater flexibility in development regulations for mixed-used building types.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment.

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board did not recommend approval (4-4) of the proposed text amendment on January 6, 2022. See attachment 3 for combined minutes from all three HOAB meetings where this item was on the agenda. See attachment 4 for the documents that were presented at the HOAB meeting in October 2021 when the proposed text amendment was first brought for discussion.

PART 6: PUBLIC HEARING

March 7, 2022

PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board is scheduled for March 22, 2022.

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Ordinance
3. Combined HOAB Minutes
4. October 7 HOAB Agenda Item Documents: Summary and Code Research
5. Occupiable Roof Criteria per Building Code

PART 9: STATEMENT OF CONSISTENCY – TA21-15

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA21-15, Planning Staff recommends approval based on the application based on the amendment being consistent with policies LU-8, LU 8.2, LU-11, LU 11.1, DT 1.1, DT 1.4, and DT 11.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest because as the Town continues to grow, it will take a more urbanized form and we expect to see greater desire for rooftop amenities.	APPROVAL: In considering the proposed amendment TA21-15, the Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...<i>(Explain)</i>	APPROVAL: In considering the proposed amendment TA21-15, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...<i>(Explain)</i>
DENIAL: N/A	DENIAL: In considering the proposed amendment TA21-15, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent) with (insert applicable plan reference).</u> It is not reasonable and in the public interest to amend the Zoning Ordinance because....<i>(Explain)</i>	DENIAL: In considering the proposed amendment TA21-15, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent) with (insert applicable plan reference).</u> It is not reasonable and in the public interest to amend the Zoning Ordinance because....<i>(Explain)</i>



Text Amendment Application

Date of Application 11/22/21

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☒ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☐ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 8.7, 7.10, 7.11, 4, 12.2.1 Section(s): _____

see attached

Current Ordinance

See attached

Proposed Text

Reason for Proposed
Change

To allow 3 place standards for Rooftop Amenity
Spaces to exceed the maximum building height.
These spaces are intended to be an accessory
use for building occupants.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Town of Huntersville Planning Department
☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: _____
Signature *Jack Simoneau* Date 11/22/21
Title Planning Director Email Jsimoneau@huntersville.org
Address of Applicant 105 Gilead Rd, 3rd Floor, Huntersville, NC 28078

Property Owner (if different than applicant)

* Printed Name N/A
☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____
Signature _____ Date _____
Title _____ Email _____

Address of Property Owner _____
* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

Town of Huntersville
Planning Department
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: 11/22/21
Staff Initials: KIM

AN ORDINANCE TO AMEND ZONING ORDINANCE ARTICLES 8.7: HEIGHT LIMITATION; 12.2.1: GENERAL DEFINITIONS; ARTICLE 4: BUILDING AND LOT TYPES: APARTMENT BUILDING; ARTICLE 4: BUILDING AND LOT TYPES: SHOPFRONT BUILDING; ARTICLE 7.10 OPEN SPACE; AND ARTICLE 7.11 URBAN, AGRICULTURAL, COMMON, NATURAL, & RECREATIONAL OPEN SPACE TO ALLOW AND ESTABLISH STANDARDS FOR ROOFTOP AMENITY SPACES THAT EXCEED THE MAXIMUM BUILDING HEIGHT

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 8.7: Height Limitation of the Zoning Ordinance is hereby amended as follows:

- .1 The height of habitable buildings and components is controlled by building type (Article 4).
- .2 Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Further, towers primarily used for manufacturing purposes that may also be occupied may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (Article 4). When adjacent to a lot or lots located in a residential district, any part of a non-civic structure which extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground. In all other instances, any part of a non-civic structure which extends above the height limit must be separated from lot lines by a minimum distance of one foot for every four feet in height measured from the ground.
- .3 The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.
- .4 Commercial communication towers, where permitted, may exceed the height limit for structures when the standards of Section 9.9 are met.

.5 Rooftop Amenity Spaces & Exceedance of Maximum Building Height

The intent of these rooftop amenity space regulations is to allow rooftop amenity spaces for residents of an apartment building type or mixed-use building type to exceed the maximum building height allowed subject to the below standards:

- a. **Location.**
 - i. **Rooftop Amenity Spaces shall be separated by a distance of at least 100 feet from property lines of a single-family residential use when such single-family residential use is located in the R, TR, NR, or GR zoning district.**
- b. **Size and Height.**
 - i. **The height of the rooftop amenity space and structures therein shall not exceed 15 feet above the proposed building height; and**
 - ii. **The area of the rooftop amenity space, measured to the outermost exterior element, shall not exceed 1,500 square feet.**
- c. **Access.**

- i. Rooftop amenity spaces shall be available to all residents of dwelling units in a building, but not to commercial tenants of a mixed-use building.
- d. Lighting and Noise.
 - i. Rooftop Amenity Spaces shall adhere to the lighting standards set in the Zoning Ordinance under Article 8.26.
 - ii. Rooftop Amenity Spaces shall adhere to the noise standards set in the Town Code of Ordinances under Title IX, Chapter 93, Article III. Noise.
 - iii. The use of sound amplifying equipment shall be prohibited.
 - iv. All exterior lighting associated with rooftop amenity spaces shall be on a timer that turns the lights off at 11:00 p.m., except for necessary lighting for site security.
- e. Open Space.
 - i. Rooftop Amenity Spaces may count towards Urban Open Space requirements in accordance with Articles 7.10 and 7.11.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 12.2.1: General Definitions of the Zoning Ordinance is hereby amended as follows:

Rooftop Amenity Spaces. A covered, uncovered, or enclosed space on a building rooftop that is intended to be an accessory use for building occupants.

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 4: Building and Lot Types: Apartment Building of the Zoning Ordinance is hereby amended as follows:

Permitted Heights and Uses

1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above.

5. Rooftop Amenity Spaces for Apartment Building Types may exceed the maximum building height in accordance with Article 8.7.

Section 4. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 4: Building and Lot Types: Shopfront Building of the Zoning Ordinance is hereby amended as follows:

Description

The shopfront building is a small-scale structure which can accommodate a variety of uses. The structure is typically a maximum of 15,000 square feet. A group of shopfront buildings can be combined to form a mixed-use neighborhood center. Individual shopfront buildings can be used to provide some commercial service, such as a convenience food store, in close proximity to homes. Traditional commercial buildings in the old town provide good examples. Hotels, inns, and conference centers may be placed in shopfront or mixed-use buildings. **A mixed-use building duplicates the shopfront building type in accordance with the applicable Zoning District, see applicable Zoning District for additional standards.** Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Permitted Heights and Uses

1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above, and are further controlled by district regulations.
5. Where an existing residential building converts to a mixed-use building, at least 40% of the habitable floors area shall be residential.

6. Rooftop Amenity Spaces for residents of Mixed-Use Building Types may exceed the maximum building height in accordance with Article 8.7.

Section 5. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.10 Open Space – Purpose, Intent, and Definitions of the Zoning Ordinance is hereby amended as follows:

7.10 Open Space – Purpose, Intent and Definitions

Regulations are intended to provide quality open space within a subdivision, multi-building site or commercial development.

There are five types of open space Urban, Agricultural, Common, Natural, and Recreational. Encouragement is given to apply creative design and allow flexibility to aid application of open space typologies. When determining placement of open space within a subdivision evaluation should occur when siting services and infrastructure by reducing road length, utility runs, and pavement. The creation of compact neighborhoods accessible to open space amenities aid strong community identity.

.1 Open Space Typologies Defined

- (a) Urban Open Space: planned and improved open space, accessible and usable. For small lot subdivisions urban open space shall be provided to persons living within ¼ mile

measured along rights-of-way. In large lot subdivisions, urban open space application is required at ½ mile.

- (b) Agricultural Open Space: preserve agricultural lands and rural character that would likely be lost through conventional development approaches.
- (c) Common Open Space: Any portion of a land that is not part of a private lot or tract of land such as, but not limited to, area devoted to water quality/quantity measures, entryway features including the landscape material, signage and, if applicable berm and any other open space area that is not defined by one of the four other open space types.
- (d) Natural Open Space: preserve forested lands, natural features, and rural character that would likely be lost through conventional development approaches.
- (e) Recreational Open Space: to provide for active and passive recreation, included but not limited to, implementation of associated long range Town/County plans.

Reference Article 12: Definitions for subdivision, large lot.

.2 All zoning districts, except Rural, require Urban Open Space to be incorporated into the design. All open space areas outside of landscape and BMP (stormwater) easements and lots that are not specified as Urban Open Space shall meet one or a combination of the remaining four open space typologies, Agricultural, Common, Natural and Recreational. Article 3 and Article 7.11 shall be referenced for further information.

.3 Rural Zoning shall incorporate a combination of Agricultural, Common, Natural, or Recreational open space typologies. Article 3.2.1 and Article 7.11 shall be further referenced.

.4 Below is a table outlining what types of open space options are available to meet zoning district standards.

Open Space Type:	Zoning Districts:	<i>R</i>	<i>TR</i>	<i>GR</i>	<i>NR, NC, TC, HC, CI, CB, SP, TND-U, TND-R, VS, TOD-R, and TOD-E</i>
<i>Common (7.10.1.c)</i>		◇	◇	◇	◇
<i>Agricultural (7.10.1.b)</i>		◇	◇		
<i>Natural (7.10.1.d)</i>		◇	◇		
<i>Recreational (7.10.1.e)</i>		◇	◇		
<u>Urban (7.10.1.a):</u>	Urban Types:				
	<i>Community Garden</i>		◇		◇
	<i>Forcourt</i>		◇		◇
	<i>Green</i>		◇		◇
	<i>Greenbelt</i>		◇		◇
	<i>Greenway</i>		◇		◇
	<i>Park</i>		◇		◇
	<i>Parkway</i>		◇		◇
	<i>Pedestrian Passage</i>		◇		◇
	<i>Plaza</i>		◇		◇
	<i>Promenade</i>		◇		◇
	<i>Square</i>		◇		◇
	<i>Woonerf</i>		◇		◇
	<u>Rooftop Amenity Space</u>		◇		◇

Section 6. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space of the Zoning Ordinance is hereby amended as follows:

7.11 Urban, Agricultural, Common, Natural and Recreational Open Space

.1 Urban Open Space:

(a) Urban Open Space is defined as all areas not divided into private or civic building lots, streets, right-of-way, parking or easements.

(b) Urban Open Space shall be planned and improved, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: landscaping, walls, fences, walks, statues, fountains, ball fields, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height. (Exceptions: fences used in conjunction with ball fields.) Urban Open Space shall conform to one of the Urban Open Space types described in this section, or to a minor variation of same.

(c) In major subdivisions and multi-building developments in all zoning districts except Rural, urban open space shall be integrated into the design of the site. Such open space, whether on-site or off-site, shall be located within ¼ mile of each building lot as measured along the rights-of-way of streets providing access between the two. In large-lot subdivisions such urban open space shall be integrated into the design of the site so that, whether located on-site or off-site, such open space is located within ½ mile of all building lots, as measured along the rights-of-way of streets providing access between the two.

(d) Urban Open Space features should provide focal points for the neighborhood. A central square or green, for example, may comprise a majority of the open space. There should be a hierarchy of open space within new neighborhoods to serve the needs of all residents.

(e) No more than twenty-five (25) percent of each above ground water quality/quantity treatment system (BMP) within an urban open space area can be used. Any above ground BMPs located within an Urban Open Space must add to the overall quality of the open space, rather than detract from area devoted to BMP. To exceed the twenty-five (25) percent limitation a design may be submitted to the Planning Board for review and approval. Such BMP design shall incorporate a combination of the following design elements; but not limited to, pathways, boardwalks, ponds with fountains, and landscape material. Underground BMPs are not limited.

(f) Urban Open Space types include Community Garden, Forecourt, Green, Greenbelt, Greenway, Park, Parkway, Pedestrian Passage, Plaza, Promenade, Square, ~~and~~ Woonerf, and Rooftop Amenity Space, and are characterized as described below or to a minor variation of same.

Community Gardens should be centrally located and accessible to residents for participation. Maintenance of the site shall be continued year round, as the intent is for the garden to be all-season. Should the garden become abandoned then the garden area will be required to be seeded with grass and used as a recreational area. Community Gardens shall be a minimum of 500 sq. ft.



Forecourts are open space areas which act as buffers between residential buildings and non-residential buildings or streets. Forecourts are entirely bounded by streets. It is recommended that forecourts be planted parallel to all street ROW's with one tree species. Such plantings shall be a minimum of 10 ft. on center and a maximum of 30 ft. on center.



Greenbelts run along the perimeter of a neighborhood or town and serve to buffer from surrounding non-compatible uses such as a highway corridor, industrial district, or from agricultural areas or adjacent towns.



Greenbelts are left natural, but may include walking trails or passive recreation. In addition, schools located adjacent to Greenbelts can provide all recreational and athletic fields within the greenbelt. Streets bordering greenbelts shall match the Residential Street standards in Article 5 and the Huntersville Engineering Standards and Procedures Manual.



A **Green** is typically landscaped with trees at the edge and an open expanse of grass in the center that is externally surrounded directly or indirectly by buildings.



Green continued.



Greenways are generally linear in nature and may bisect or border developments. They are designed to incorporate natural settings such as creeks and significant stands of trees with neighborhoods. Recreational uses shall be provided, at a minimum, trails for walking, jogging and/or bicycling. A greenway may be bound by a public street, but not required. Greenways dedicated to Town/County as identified on the adopted greenway



plan will be counted toward tree save area, if relevant. Upon completion of the publicly dedicated greenway any trees removed due to construction are not required to be replaced.



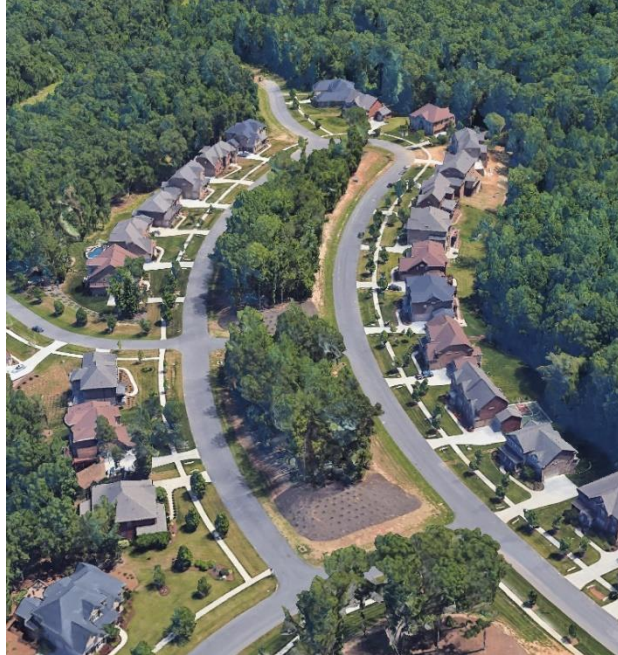
Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 25% of their perimeter, and are encouraged to be enclosed by streets on all sides. Mini Parks, such as, but not limited to dog parks, playgrounds, pocket parks and splash pads can be incorporated throughout a development to meet the ordinance requirements.



Where mini parks are not used, the minimum size shall be 1 acre and maximum size 3 acres. Maximum park size may exceed 3 acres, if through design, the park creates a central open space, which services an entire neighborhood or group of neighborhoods; or incorporates physical features, which are an asset to the community (i.e. lake, high ground, significant stand of trees).



Parkways are open spaces designed to incorporate natural settings such as creeks and significant stands of trees within a neighborhood. Parkway may be entirely bounded by streets or pedestrian ROW's within developed areas. Parkway differ from parks and squares in that their detailing is natural (i.e. informally planted). Parkway are used for walking, jogging or bicycling. In addition, small scale recreational features such as playground area or soccer field are appropriate in parkways. Streets bordering the parkway shall match the Residential Street standards in Article 5 and the Huntersville Engineering Standards and Procedures Manual.



Parkways continued.



A **Plaza** is an open area adjacent to a civic, commercial, or residential building/s. Plazas function as gathering places. Limited parking is also permitted. Plazas are always paved in brick or another type of paver or crushed stone. Plazas shall be level, stepped, or gently sloping (less than 5% grade). The following sizes are recommended but may be smaller or larger depending on the building or facility design. At no time shall a plaza's horizontal



length or width be greater than 3 times the height of surrounding buildings. Plazas may be left unplanted. If planted, trees should form the geometric frame of the plaza space or for the structure the plaza services. Spacing shall be a minimum of 10 ft. on center and a maximum of 30 ft. on center. Minimum size is 2,000 sq. ft. and maximum size is 30,000 sq. ft.	
<u>Pedestrian passageways</u> are relatively narrow public spaces located in dense areas between buildings, allowing pedestrian access to the public front. These passageways can be successful locations for store entries, window displays, café seating or public meeting space. The passageway shall incorporate fixtures such as, but not limited to fountains, benches, landscape materials, sculptures, and other decorative elements. Pedestrian passageways continued.	 
A <u>Promenade</u> is a large, linear-designed area, usually adjacent to buildings lined with trees and shrubbery, which can be used as a public walk. Typically parking surrounds a promenade.	

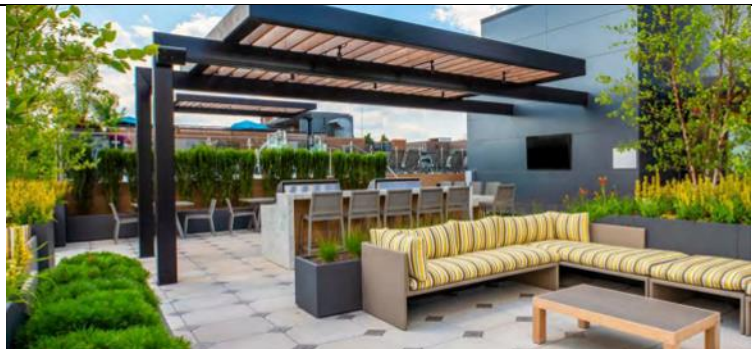
Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of three sides or 75% of their perimeter. Minimum size: 500 sq. ft.; Maximum size: 1 acre. Squares may be entirely paved in crushed gravel, brick paver, or similar material, or partially paved with other areas of soft landscape. Squares are encouraged to be planted parallel to all street ROW's with one tree species planted a minimum of 10 ft. on center and at a maximum of 30 ft. on center. Geometrical tree planting layouts for internal plantings are encouraged. A close can function as a square.



A **Woonerf** is an access way where the primary use is by pedestrian and bicycles with secondary use by vehicles. By removing curbs and any indication of a car travel line, while at the same time adding landscaping and street furniture, the public realm for pedestrians is expanded into what was the street. Parking areas shall be dispersed.



A Rooftop Amenity Space is a covered, uncovered, or enclosed space on a building rooftop that is intended to be an accessory use for residents of apartment building type or mixed-use building type. Rooftop Amenity Space must be accessible to all residents in a development to count towards Urban Open Space. Maximum of 1,500 SF of Rooftop Amenity Space



able to count towards Urban Open Space requirements. Rooftop Amenity Space improvements shall include, but are not limited to, seating, landscape materials, and lighting. Rooftop Amenity Space improvements can include, but are not limited to, shade structures, fountains, sculptures, and other decorative elements.



Section 7. Effective Date.

This ordinance shall become effective immediately.

Text Amendment Timeline

Recommendation by HOAB: 01/06/22

Public Hearing: 03/07/22

Recommendation by Planning Board: 03/22/22

Final Decision by Town Board: 04/18/22



Huntersville Ordinances Advisory

Board Minutes

October 7, 2021

3:30 p.m. – 5:00 p.m.

Location: VIRTUAL MEETING

A. Call to Order

Attendance: M. Jones, T. Taylor, L. Munger, K. Jones, J. Henson, S. Moore, F. Gammon, T. Finlay (arrived at 3:43 p.m.), and B. Skelly

Non-voting members present: J. Simoneau, J. Glass & T. Barron

A. Adoption of September 2, 2021 Minutes (Attachment 1)

S. Moore made a Motion to Approve the September 2, 2021 Minutes. J. Henson seconded the motion. The motion passed (8-0).

B. Decision on amending the agenda to include item 5 under D. Other Business.

L. Munger made a Motion to Approve amending the agenda to include Item 5 – Discussion and possible recommendation on amendment to multiple ordinances to comply with SB 300, decriminalization of certain ordinances. S. Moore seconded the motion. The motion passed (8-0).

C. Comments from Audience (3 minutes per person allocation)

D. Other Business

1. **Discussion on Rooftop Amenity Spaces and building height limits (amenity to comply with existing building height or establish special provisions for rooftop amenities? Attachment 2, 3).**

J. Simoneau, Planning Director reviewed that a project proposed for Downtown Huntersville has proposed a design that would include a rooftop amenity for its residents. Staff determined a text amendment was reasonable to allow this type of feature within the Town. Staff reviewed the current ordinance Article 8.7 – height limitation and the research completed on surrounding municipalities relative to what is permitted and what is restricted such as ensuring privacy for adjacent neighbors, lighting, noise, size and height, and access standards.

K. Jones asked Staff if we know what the applicant in Downtown Huntersville is proposing to use the space for, what size is proposed and where it would be located. Staff responded it would be for resident use only, located on the Northeast corner nearest Discovery Place Kids and the size would be limited by building code which Staff understands may be a maximum of 750 square feet. She commented she would like to see staff focus on where they are allowed, lighting and noise provisions.

F. Gammon commented that he has seen many of these in other locations and they are an attractive amenity, he asked if we know what the applicant will use the space for and how the setbacks are calculated with the additional height. Staff commented that it will be for the residents to go sit outside, there is a proposed pergola to create some shade and if the building meets setback requirements, then it would qualify there would not be additional setback requirements.

T. Taylor commented that the building code has additional requirements when a rooftop area exceeds 10% of the total area which may be what would limit the applicant to 750 square feet. He is not opposed to rooftop amenities and would recommend focusing on what the use of the space is because this could be something they would quickly want to turn into a bar and that would create noise and light pollution concerns. Staff commented that our position is that commercial type uses would need to comply with the building height requirements as they exist now and this ordinance would address amenity uses only.

K. Jones commented that she is familiar with a rooftop space that works as a clubhouse type amenity for residents. It can be reserved or rented by the residents and unless there are specific rules regarding the noise and use it cannot be controlled. Staff thanked her for her feedback and said that will be useful in formulating the ordinance.

L. Munger asked where Staff would propose adding this amendment to the ordinance, if Staff considered applying this to residential and commercial zoning, and residential buildings that face a greenway. Staff commented that the amendment will be word smithed and the ordinance reviewed to determine all the references needed in the ordinance. The height will be measured from the street, not the greenway.

M. Jones asked if safety needs to be addressed relative to preventing a falling risk or objects going over the side and potential risks below. Staff stated that in their research they did notice setbacks from the building and all buildings are allowed to have balconies so there is always going to be a potential risk of something being thrown or falling. T. Taylor commented that the building code will require a 42-inch railing.

S. Moore recommended incentivizing this option as being able to count towards open space requirements for the developer to get them to think outside the box.

F. Gammon agreed with S. Moore's comment and suggested that it be dependent on what the rooftop amenity is being used for when considering counting it as open space.

2. Recommendation on TA21-11, an amendment to 1) standardize existing requirements for Special Use Permits and delete repetitive standards; and 2) amend definitions of major and minor variances from Watershed regulations and findings of fact required for variances from Watershed regulations to be consistent with the North Carolina Administrative Code (Attachment 4).

L. Speight, Planner II reviewed the proposed amendments which are being removed where duplicative and added to be consistent. No amendments represent new standards which must be met by the applicant, only an amendment to where you may find these standards within the ordinance. The second portion of the amendment related to major and minor variances to ensure that the ordinances are consistent with the North Carolina Administrative Code.

L. Munger confirmed that this amendment is housekeeping to keep us in compliance and not creating any substantive changes. E. Sloop, Town Attorney confirmed she worked with staff on all of these proposed amendments, and they are all compliance related.

M. Jones asked E. Sloop to state on the record that in her legal opinion these amendments are in compliance with special use permits statute case law and constitutional limits. E. Sloop commented that she drafted the edits and she would not do so if they were not in compliance with state law.



Huntersville Ordinances Advisory

Board Minutes

December 2, 2021

3:30 p.m. – 5:00 p.m.

Location: VIRTUAL MEETING

- NOTICE VIRTUAL MEETING -

A. Call to Order

Members present: Chairman M. Jones, Commissioner L. Munger, K. Jones, T. Finlay, J. Henson, B. Skelly, T. Taylor, J. Snv

Member absent: S. Moore

B. Adoption of November 4, 2021, Minutes (Attachment 1)

T. Taylor made a Motion to Approve the November 4, 2021, Minutes. J. Henson seconded the motion. The motion passed (6-0-2) with T. Finlay and J. Snv abstaining.

C. Comments from Audience (3 minutes per person allocation)

D. Other Business

1. Discussion on language for TA21-15, an amendment to allow rooftop amenity spaces to exceed the maximum building height on multi-family and mixed-use structures and to add regulations for rooftop amenity spaces that exceed the maximum building height.

K. Mielenz, Planner I reviewed the proposed amendment and indicated that staff has taken the feedback provided at the October meeting in conjunction with neighboring municipalities ordinances related to rooftop amenities to draft a proposed text amendment. Staff expressed that this text amendment will only add regulations for rooftop amenities that exceed the allowed building height, it does not add regulations for rooftop amenities that are below the allowed building height. This proposed ordinance is intended to be for resident use only of apartment building types and residential mixed-use types, not commercial or to be used by the commercial tenant in a mixed-use building type.

Staff reviewed that staff is comfortable with the proposed amendment which would be allowed for shopfront (mixed-use) and apartment building types in the NR, NC, HC, CI, CB, TC, TND, TOD-R & TOD-E zones. Staff reviewed the proposed amendments to Article 8.7 related to height limit.

L. Munger commented that he would be open to a setback when adjacent to Neighborhood Residential.

K. Jones commented that she agreed with L. Munger and a setback adjacent to Neighborhood Residential may be important to avoid a problem similar to Community School of Davidson.

J. Snv asked what prompted this text amendment. Staff shared that the question was posed by the North State Development regarding the Huntersville Town Center Mixed Use project. Staff liked

the proposed use and thought it could be a good addition to the ordinance, so the Planning Department is sponsoring the text amendment and reviewing it with the Board to see what your thoughts are on permitting this in the Town.

T. Taylor commented that he also agrees that there should be some separation of this use between single-family and rooftop structures.

B. Skelly agreed and asked if there is something similar in place from the research of neighboring municipalities. Staff responded that when referenced the research varied from not allowed to 200 to 400-foot setbacks.

M. Jones asked if expanding the amendment to include other types of buildings has been considered such as hotels and offices as an option to minimize impervious surface. Staff commented that this amendment is intended for residential use when you exceed your maximum height. Under the current ordinances other building types may include a rooftop amenity if it is in keeping with the allowed building height and in the future, it is possible this will be amended to allow additional building types as well. M. Jones responded that he would recommend a comprehensive look at all building types now versus the additional time spent in the future to possibly amend the ordinance again.

Staff reviewed the proposed height restriction of 15 feet and maximum of 1,000 square feet or 10 percent of floor area restriction which could change relative to the Mecklenburg County Building Code requirements.

K. Jones recommended a straight 15-foot height restriction regardless of the height of the building and asked if the fire code has been kept in consideration as well. Staff confirmed they will verify that the fire code is kept in consideration.

J. Snyder commented that he does not see a need to limit the floor area beyond building code and/or safety restrictions. If the developer meets those requirements and has a creative use for all the remaining allowed area, he doesn't see a reason to limit their ability to do that.

L. Munger agreed with the comments made that it should be a fixed 15-foot height restriction, the proposed floor area currently seems very restrictive and J. Snyder's comments seem more appropriate, and the setbacks should be determined by what it is directly adjacent to and not restrictive further than that as buildings with personal balconies do not incur additional setbacks.

M. Jones commented he agrees with the comments made that flexibility should be included in the floor area permitted.

Staff reviewed that the proposed access would be for resident use only and shall not be accessible to commercial tenants.

L. Munger commented that while he understands this limitation when the location is adjacent to residential he wonders if it should apply when the building is not located near residential, or if managing that this is limited to residents only is an area that Zoning should insert themselves into. Staff commented that this amendment is only relative to buildings that exceed the height limitation, not those in keeping which could have a rooftop bar or commercial use.

J. Snyder asked if this amendment having a provision for additional review based on location would create more flexibility to permit possible use without opening it all the way up.

Staff reviewed the proposed lighting and noise restrictions and stated that the existing lighting ordinances would also apply relative to type of lighting, placement, etc.

K. Jones asked for confirmation that the ordinances would protect any adjacent neighbors from light pollution. Staff stated that the existing lighting ordinances would address that.

T. Finlay asked if any setback distance would be addressed relative to lighting use and placement. Staff responded that this is also already addressed in the existing ordinances.

Staff commented that the wording for Urban Open Space has not yet been drafted but staff is working on that and will have it prepared for the January public hearing.

J. Sny expressed concern about a potential mixed-use development using this urban open space to reduce the amenities accessible to town homes because they are located within the required distance but may not actually have access to it as they are not residents of the building it is located above. Staff responded that if the townhome does not have access to the urban open space then it would not be counted for that location regardless of the distance, the resident must have access to it for it to count.

B. Skelly recommended a percentage cap on this counting towards Urban Open Space to prohibit strictly incorporating roof top space to subvert traditional Urban Open Space.

Staff reviewed the proposed definition of rooftop amenity space and commented on the additional wording that will be included in the version presented in January to identify open, covered or enclosed rooftop amenities.

J. Henson asked if the definition needs to include what is defined for Open Space. Staff agreed that it will need to include that, and the conversation and discussion is helpful to finalize the draft of the amendment.

M. Jones asked if the definition will only apply to rooftop amenities that exceed the allowed building height. Staff responded that the definition is intended to be for all rooftop amenities and will need to be improved so as not to seem to limit commercial uses for allowed building heights.

M. Jones asked if there has been any consideration to encourage or incentivize this use to reduce impervious area. Staff commented that we do not currently have that included but it could be considered.

J. Henson commented that the builder is incentivized because there will be less storm water requirement. Staff concurred and stated that the vast majority of current urban open spaces are not impervious as they are typically grass and trees.

M. Jones asked if a stormwater detention system can be placed on a roof. Staff commented that the water quality standards have flexibility for innovation included so if someone wanted to add a rooftop garden there may be an option to give them some credit and Staff will review that with the Stormwater Engineers.

Staff reviewed the amendments to allow the use in specific building types and then concluded with stating that they will return with this item for consideration of recommendation at the January 6, 2022 meeting.

E. Adjourn



Huntersville Ordinances Advisory

Board Minutes

January 6, 2022

3:30 p.m. – 5:00 p.m.

Location: VIRTUAL MEETING

- NOTICE VIRTUAL MEETING -

A. Call to Order

Members present: Chairman M. Jones, Commissioner L. Munger, K. Jones, F. Gammon, J. Henson, B. Skelly, T. Taylor, S. Moore

Member absent: T. Finlay

B. Adoption of December 2, 2021, Minutes (Attachment 1)

L. Munger made a Motion to Approve the December 2, 2022, Minutes. K. Jones seconded the motion. The motion passed (7-0-1) with S. Moore abstaining.

C. Comments from Audience (3 minutes per person allocation)

D. Other Business

1. Discuss Minor Solar Energy Facilities on the front roof slope by-right

S. Moore made a Motion to Amend the Agenda and remove Item D1 from the agenda. J. Henson seconded the motion. The motion passed unanimously (8-0).

2. Recommendation on language for TA21-15, an amendment to allow rooftop amenity spaces to exceed the maximum building height on apartment building types and mixed-use building types and to add regulations for rooftop amenity spaces that exceed the maximum building height.

J. Simoneau, Planning Director reviewed the proposed amendment which would allow rooftop amenities to exceed a maximum building height for apartment and mixed-use building type. The standards were based on feedback received from this Ordinance Advisory Board. Staff does not recommend that there be a setback as decks and balconies are allowed on all other levels up to the edge and building code will require appropriate railing and safety requirements. The rooftop amenity could count towards a maximum of 1,500 square feet of Urban Open Space and must be accessible to all residents.

S. Moore asked staff why the Code of Ordinances are not being used to stipulate the noise and sound ordinances versus a zoning overlay. Staff responded that the noise ordinance is general and in reviewing neighboring ordinances that allow rooftop amenities this seemed to be the favored approach.

K. Jones asked if the sound and light ordinances that the Community School of Davidson Athletic Field are currently under would be the same ordinances that would govern rooftop amenities. Staff confirmed that they are both governed by the same ordinance and in that situation, there have been complaints, staff has gone onsite with the light meter and determined the lights do not meet our ordinances and they are having to fix the issue. If a rooftop amenity received a complaint staff would investigate and if they were found out of compliance, they would also have to fix the issue.

S. Moore asked staff why a maximum of 1,500 square feet counting towards Urban Open Space was determined. Staff responded that this was also a similarity found in neighboring zoning ordinances and reminded the Board that this limitation only applies if you exceed your maximum building height.

K. Jones asked for clarification on the height exceeding what is allowed. Staff confirmed that these ordinances only begin when the proposed rooftop amenity exceeds the allowed building height.

F. Gammon asked about the access for commercial tenants and if the zoning ordinance would allow a commercial building to have a green roof for uses such as climate control and gardening. Staff confirmed that any limitations to this would only apply if the space exceeded the maximum allowed height.

L. Munger asked if a mixed-use building would have commercial on the first floor and residential above with the uses typically contiguous to the adjacent floors. Staff confirmed that is correct you would not typically want customers using elevators to go to the roof and past the residents.

M. Jones asked if there is any community benefit and if there is any incentive to incorporate storm water or impervious surface considerations, and if the proposed amendment is too narrow in its scope. Staff responded that the amenity is for the community within that building, and nothing precludes them from incorporating storm water or impervious considerations into their use. Staff responded that they felt comfortable with the amendment as currently written and agree that this could adapt or evolve into something greater in the future.

L. Munger made a Motion to Recommend Approval of TA21-15 as written. T. Taylor seconded the motion.

S. Moore stated he would not be voting in favor of this because while a step in the right direction he thinks that the sound/noise additions are unnecessary, and the 1,500 square feet is too limiting. He would be comfortable with the height exceeding 15' and we should do everything we can to incentivize these improvements.

The motion was a split vote (4-4) with M. Jones, K. Jones, S. Moore, B. Skelly opposed.

3. Recommendation on language for TA22-01, a text amendment to update the definition and initiation of Down Zoning in compliance with 160D state statutes.

J. Simoneau, Planning Director commented that this amendment is to bring the zoning ordinances in compliance with 160D state statute changes related to down zoning.

L. Munger made a Motion to Recommend Approval of TA22-01 as written. J. Henson seconded the motion. The motion passed unanimously (8-0).

4. Update on sewer capacity in eastern Huntersville

J. Simoneau, Planning Director provided an update on the sewer capacity status, areas affected, and proposed short term actions which include a reduced flow factor approved by the state and rationing of remaining capacity so that some capacity can be allocated to as many projects in the current review queue as possible which will be provided on a first come first serve basis to allow some phase development for most applicants. Mid term actions include design of a pump station to pump wastewater to an existing water treatment plant to provide more capacity. Long term action includes a request for more capacity and the anticipated expansion to be online in 2024.

K. Jones asked if this means any projects on the east side of town will be on hold. Staff stated it does not, some projects already have approval, other projects that have not been

Rooftop Amenity Spaces & Building Height

- North State Development, LLC rezoned 9.94 acres through a conditional rezoning to TC (CD) (R20-03). The developer is considering adding a 750 SF rooftop amenity space on the top corner of a mixed-use building where Gilead Rd will meet Public Street A (Parcel 01711616).
- The conditional rezoning for this project allowed a maximum building height of 52.5'. Without a rooftop amenity space, the proposed mixed-use building height is 52.5'.
- Article 8.7 states that no area intended for human occupancy can exceed the height of buildings (in this case, 52.5').
- Currently, a rooftop amenity space for the mixed-use building would not be permitted because it would increase the building height past the allowed maximum of 52.5'.



Approved Rezoning



Potential Rooftop Amenity

- Huntersville staff seeks feedback from the Huntersville Ordinance Advisory Board to determine if rooftop amenities should be limited to the maximum building type height OR if there should be a specific provision allowing rooftop amenities to exceed the maximum building height standards.
- Building height limits are as follows unless adjusted through a conditional rezoning: **Workplace-45'**; **Shopfront-48'**; **Highway Commercial-36'**; **Apartment-36'**; **Detached & Attached House: 30'**.
- Research was conducted regarding rooftop amenity spaces; North Carolina municipalities reviewed were Chapel Hill (no language), Charlotte (allowed in TOD zone with location, setback, screening, & noise standards) and Asheville (allowed in 1 district; count as open space; location, size, access, setback, lighting, screening, noise, height encroachment, enclosure).
- Portland OR, Palo Alto CA, and Kirkland WA were also examined for language on rooftop amenity spaces. Portland had no rooftop amenity space language. Palo Alto had some provisions (open space classification; location, access, setbacks, lighting, screening, noise, height encroachment).
- Per Kirkland, WA Zoning Ordinance, Rooftop Common Room is defined as an exterior covered area or an interior enclosed space on a building rooftop that is available to all building occupants and does not provide exclusive space to any specific units. Rooftop Amenity is defined as temporary or permanent structures that are on a building rooftop. Rooftop common rooms and rooftop amenities are only permitted on structures containing stacked dwelling units and/or commercial units, where no portion of the property is adjoining a low-density residential zone. Furthermore, the ordinance specifies the height of the rooftop common room shall not exceed 15 feet or the height of the story immediately below the rooftop common room, whichever is less.

The Town of Huntersville has several options to regulate building height of rooftop amenity spaces.

- **Option A.** Leave the Zoning Ordinance as is and a rooftop amenity space must fit within the allowed maximum building height for its building type.
- **Option B.** Zoning Text Amendment to Article 8.7 that specifies rooftop amenity spaces can extend a certain amount of feet above the allowed maximum building height with some conditions (see Kirkland).
- **Option C.** Wait until the Downtown Plan is completed to see if any changes are recommended (NOTE: rooftop amenity provisions can be town-wide and not limited to downtown).

October 7, 2021 HOAB Agenda Item Document: Code Research
Huntersville, NC

Zoning Ordinance

- **Article 8.7 – Height Limitation**

- 1. The height of habitable buildings and components is controlled by building type ([Article 4](#)).
- 2. Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings.
 - When adjacent to a lot or lots located in a residential district, any part of a non-civic structure which extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground. In all other instances, any part of a non-civic structure which extends above the height limit must be separated from lot lines by a minimum distance of one foot for every four feet in height measured from the ground.
- 3. The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.

- **Article 3.2.6 – Town Center**

- Permitted Building and Lot Types
 - mixed use (4) up to 50,000 SF of first floor area; larger buildings may be permitted with a special use permit
 - storefront up to 50,000 SF of first floor area; larger buildings may be permitted with a special use permit
 - (4) The mixed use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use. However, when an existing residential building is redeveloped to a mixed-use, at least 40% of the habitable area shall be in residential use.

- **Article 4 – Shopfront Building**

- Techniques- B. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.
- Permitted Height and Uses
 - 1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
 - 2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
 - 3. Building height to the ridge may vary depending on the roof pitch.
 - 4. Permitted uses are indicated above, and are further controlled by district regulations.
 - 5. Where an existing residential building converts to a mixed-use building, at least 40% of the habitable floors area shall be residential.

Rooftop Spaces

- Architectural Standards Principles
 - A. Development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external materials.
 - B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
 - C. The front elevations facing the street, and the overall massing shall communicate emphasis on the human scale and the pedestrian environment.
 - D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.

Kirkland, WA

Notes

- Did [Text Amendment](#) in 2020 to become more friendly and provide regulations for Rooftop Spaces
- Population: ~89,000

Definitions

- **.816 Rooftop Amenities** - Structures such as landscape planters, guards or railings, decking material, seating, play equipment, kitchen and/or barbecue elements, hot tubs, animal runs, fire pits, umbrellas, trellises, and similar temporary or permanent items that are on a building rooftop, available to all building occupants, and do not provide exclusive use to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)
- **.818 Rooftop Common Room** - An exterior covered area or an interior enclosed space on a building rooftop that is available to all building occupants and does not provide exclusive space to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)
- **Low Density Residential Zones**- Kirkland, WA has Chapter 15 Low Density Residential Zones in their Zoning Ordinance that specifies which of its zoning districts are low density residential zones
 - **15.05.010 Applicable Zones**
 - This chapter contains the regulations for uses in the following zones of the City: RS, RSX, RSA, WD II, PLA 3C, PLA 6E, PLA 16
- **.817 Rooftop Appurtenances** - HVAC equipment, mechanical or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that extend above the roofline of a building, but not including personal wireless service facilities as defined by KZC 117.15 or solar panels as defined by KZC 5.10.881.1.

Development and Performance Standards

- **115.122 Rooftop Amenities and Rooftop Common Rooms**
 - The intent of these rooftop amenity and common room regulations is to specify height and size allowances for such items above the maximum height of structure. These regulations do not apply to rooftop amenities and rooftop common rooms that are below the maximum height of structure.
 - 1. Scope – The regulations contained in this section apply only to structures containing stacked dwelling units and/or commercial uses, where no portion of the subject property is adjoining a low-density residential zone.
 - **Low Density Residential Zones**- Kirkland, WA has Chapter 15 Low Density Residential Zones in their Zoning Ordinance that specifies which of its zoning districts are low density residential zones
 - 2. Noise – Rooftop amenities and amenity spaces, and rooftop common rooms, are subject to the noise regulations described in KZC 115.95.

Rooftop Spaces

- 3. Lighting – Rooftop amenities and amenity spaces, and rooftop common rooms, are subject to the below lighting standards:
 - a. Lighting regulations described in KZC 115.85(1);
 - b. All exterior light fixtures shall be directed downward and use “fully shielded cut off” fixtures as defined by the IESNA, or other appropriate measure to conceal the light source from adjoining uses; and
 - c. All exterior lighting associated with rooftop amenities and amenity spaces, and rooftop common rooms, shall be turned off after business hours or 10:00 p.m., whichever is later, with the exception of necessary lighting for site security. On portions of property adjoining low density residential zones, such lighting shall be turned off after business hours or 10:00 p.m., whichever is earlier.
- 4. Access – Rooftop amenities and rooftop common rooms that exceed the maximum structure height shall be available to all residents of a multifamily structure or to all tenants of a commercial structure, with no additional fee for access required. For mixed-use structures, access requirements shall be based on the predominant use of that structure. Rooftop amenities and rooftop commons rooms that exceed the maximum structure height shall not provide exclusive use to any specific units/suites or group of units/suites.
- 5. Allowable Height and Size – Rooftop Amenities
 - .816 Rooftop Amenities - Structures such as landscape planters, guards or railings, decking material, seating, play equipment, kitchen and/or barbecue elements, hot tubs, animal runs, fire pits, umbrellas, trellises, and similar temporary or permanent items that are on a building rooftop, available to all building occupants, and do not provide exclusive use to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)
 - a. Rooftop amenities surrounded by approved guards or railings may exceed the maximum height of the structure for the zone by a maximum of four (4) feet.
 - b. Guards or railings enclosing rooftop amenities space may exceed the maximum height of the structure for the zone by a maximum of four (4) feet and shall be set back from the building edge a minimum of five (5) feet. Railings shall be of a transparent or majority-open design such as glass, cabling, picket, or other similar types of railings.
 - c. Rooftop amenities may not exceed the maximum structure height if any portion of the subject property adjoins a low-density residential zone.
- 6. Allowable Height and Size – Rooftop Common Room
 - .818 Rooftop Common Room - An exterior covered area or an interior enclosed space on a building rooftop that is available to all building occupants and does not provide exclusive space to any specific units/suites or group of units/suites. (Ord. 4720 § 1, 2020)

Provided, that no portion of the subject property adjoins a low density residential zone, the Planning Official may approve the addition of a rooftop common room if:

Rooftop Spaces

- a. The applicant submits accurate graphic representations or other information that demonstrates that:
 - 1) Views from adjoining properties will not be significantly blocked by the rooftop common room; and
 - 2) The location and orientation of the rooftop common room is such that the visibility of the rooftop common room from adjoining properties and streets will be minimized; and
 - 3) All walls of the rooftop common room must contain transparent windows comprising at least 75 percent of the area of the facade between two (2) feet and seven (7) feet above floor level. This requirement does not apply to elevators and stair enclosures attached to a rooftop common room; and
 - 4) The rooftop common room is architecturally integrated with the building design; and
 - b. The height of the rooftop common room shall not exceed 15 feet or the height of the story immediately below the rooftop common room, whichever is less; and
 - c. The area of the rooftop common room, measured to the outermost exterior element, shall not exceed 500 square feet or 10 percent of building footprint, whichever is less. The minimum floor area required by building code for elevators and associated equipment and/or stair enclosures shall be exempt from the maximum area calculation for the rooftop common room; and
 - d. The rooftop common room is set back from any building edge at a distance equal to the height of tallest point of the room above the roof deck; and
 - e. The applicant provides one (1) of the following public benefit items in addition to the rooftop common room:
 - 1) A landscaped and vegetated area, or an area designed and constructed as a green roof, equal to the square footage of the rooftop common room and showing the landscape plan requirements set forth in KZC 95.40(3), or
 - 2) A street-level public plaza equal to the square footage of the rooftop common room, or
 - 3) Public use of the rooftop common room, either as public access or as use of the rooftop common room as publicly accessible retail, restaurant, or similar space.
 - f. The Planning Official shall not approve or deny the addition of a rooftop common room pursuant to this subsection without first providing notice of the modification request to the owners and residents of each adjoining property and providing opportunity for comment.
- **115.120 Rooftop Appurtenances**
 - .817 Rooftop Appurtenances - HVAC equipment, mechanical or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that

Rooftop Spaces

extend above the roofline of a building, but not including personal wireless service facilities or solar panels.

- 4. Allowable Height and Size – Rooftop Appurtenances
 - a. Any rooftop appurtenance may exceed the maximum height of structure by a maximum of four (4) feet if the area of all appurtenances and screening does not exceed 10 percent of the total area of the building footprint (see Plate 31). Elevators and equipment and/or stair enclosures allowed under subsection (4)(b) of this section shall be included in the area calculation towards the maximum 10 percent.
 - b. For stacked dwelling units and commercial buildings, rooftop appurtenances necessary to access rooftop amenities, such as elevators and associated equipment and/or stair enclosures, may extend above the maximum height of structure for the zone beyond the allowance in subsection (4)(a) of this section, provided:
 - 1) The elevator and associated equipment and/or stair enclosure height is the minimum necessary for rooftop access and does not exceed 15 feet above the maximum height of structure.
 - 4) Rooftop appurtenances necessary to access rooftop amenities, such as elevators and associated equipment and/or stair enclosures, proposed where the subject property is partially, or wholly, adjoining low-density residential zones may only be approved through the modification process in subsection (4)(c) of this section.
- 5. Optional Locations – As an option to placing appurtenances on the roof, appurtenances may be located in a parking structure

Palo Alto, CA

Notes

- Population: ~67,000

General Standards and Expectations (18.40)

- **18.04 Definitions**

- “Height” - (all districts other than the R-E and R-1 residence district) The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof, except that in the R-2 and RMD districts the height of a pitched or hipped roof shall be measured to the height of the peak or highest ridge line. In the R-E and R-1 single family residence districts, height shall be measured from the highest point of the structure’s roof, including wall parapets, to the grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

- **18.40.230 Rooftop Gardens**

- Where allowed under this Title, in order to qualify as usable open space, a rooftop garden shall meet the following standards:
 - (a) Permanent fixtures on the rooftop shall be placed so as not to exceed height limit for the applicable zoning district, except:
 - (i) Elevators, stairs and guardrails may exceed the height limit to allow for access to the rooftop useable open space. These fixtures shall be designed to the lowest height and size feasible in order to comply with applicable building codes.
 - (ii) Permanent fixtures associated with the useable open space, such as trellises, shade structures, furniture, and furnishings such as planters, lighting and heaters, may exceed the height limit by up to 12 feet.
 - (iii) For the height limit exceptions in (i) and (ii) above, all fixtures shall not intersect a plane measured at a forty-five degree angle from the edge of the building starting at the rooftop garden surface sloping upward and inward toward the center of the property.
 - (b) The rooftop garden shall be located on the third or higher story.
 - (c) The rooftop garden shall be accessible to all residents of dwelling units on the parcel, but not to commercial tenants of a residential mixed-use development.
 - (d) Structures or fixtures providing a means of access or egress (i.e., stairway, elevator) shall be located away from the building edge to the extent feasible to minimize visibility from the public right-of-way and adjacent buildings and privacy impacts.
 - (e) Any lighting shall be shielded from public views and have full cutoff fixtures that cast downward-facing light, or consist of low-level string lights; no up-lighting is permitted. Lights shall be dimmable to control glare and placed on timers to turn off after 10:00 p.m. Photometric diagrams must be submitted by

Rooftop Spaces

the applicant to ensure there are no spillover impacts into windows or openings of adjacent properties.

- (f) At least 15% but no more than 25% of the rooftop shall be landscaped with raised beds for gardening, C.3 stormwater planters, or other landscaping. All required landscaped areas shall be equipped with automatic irrigation systems and be properly drained.
- (g) Rooftop equipment that emit noise and/or exhaust, including but not limited to vents, flues, generators, pumps, air conditioning compressors, and other protrusions through the roof, shall be directed away and screened from the useable open space areas.
- (h) Rooftop open space noise levels shall not exceed exterior residential noise level as defined by Section 9.10.030(a) of this code.
- (i) The use of sound amplifying equipment shall be prohibited. Signs shall be affixed adjacent to access elevators and stairs within the rooftop garden providing notice of this prohibition.

Asheville, NC

Notes

- Population: ~92,000

Definitions

- UDO 7.2.5 “*Building height* means the vertical distance from the ceiling of the highest occupied floor to the primary level of fire department access;
 - for the purposes of determining height in the central business district, height is the vertical distance measured from a single point beginning at the primary pedestrian entrance to the surface level of the highest occupied floor.”

Sec. 7-8-28. - Haywood Road Form District

- C. Outdoor amenity space.
 - 1.General. Where required, outdoor amenity space must be provided on the lot and must be available as unenclosed exterior space appropriately improved for pedestrian amenity, rooftop space, or for aesthetic appeal and cannot include areas used for vehicles, except for incidental service, maintenance or emergency actions only. Outdoor amenity space may be public or private.
 - 2.Standards.
 - a. Outdoor amenity space may be met in one contiguous open area or in multiple open areas on the lot; however, to receive credit, the area must be at least seven feet in width and length, and at least 40 percent of the required amenity space must be located in one contiguous open area.
 - b. Outdoor amenity space may be located at or above grade.
 - c. Outdoor amenity space may be roofed but cannot be permanently enclosed.
 - d. Outdoor amenity space cannot be parked or driven upon, except for emergency access and permitted temporary events.
 - e. In calculating the minimum outdoor amenity space requirement, the following listed facilities, and any similar facilities, may be included:
 - i.Ground-level facilities such as a swimming pool, playground, sport court, dog park, garden, community garden, park, green, pavilion, courtyard, seating area, outdoor dining area or plaza; and
 - ii.Upper-level facilities such as a shared or common balcony, rooftop deck or rooftop garden.
- G. Setback encroachments.
 - All buildings and structures must be located at or behind the required setbacks except as listed below. Unless specifically stated, no building or structure can extend into a required easement or public right-of-way.
 - d. Unenclosed patios, decks, balconies, stoops, porches, terraces or fire escapes may encroach into a side interior or rear setback, provided that such extension is at least six feet from the vertical plane of any lot line and bufferyard requirements, if any, are met
- H. Building height.

Rooftop Spaces

- 1. Building height is regulated in both number of stories and feet and is measured from the average grade to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof or to the highest point of roof surface of a flat roof, not including a maximum six-foot high parapet wall encroachment. In no case is a parapet allowed to exceed six feet in height above the roof deck.
- **I. Height encroachments.** Any height encroachment not listed below is prohibited.
 - 2. The following specified accessory structures, building and site features, and mechanical equipment may exceed the established height limit provided they do not exceed the maximum height by more than six feet:
 - a. Chimney, flue or vent stack;
 - b. Flagpole;
 - c. Vegetation associated with a rooftop garden or landscaping;
 - d. Skylights;
 - e. Parapet wall; and
 - f. Solar panels, wind turbines and rainwater collection systems.
 - 3. The following may exceed the established height limits provided they do not exceed the maximum building height by more than ten feet, are set back at least 15 feet from the edge of the roof on the primary facade and ten feet for other sides:
 - a. Elevator or stairway access to roof;
 - b. Rooftop shade structure;
 - c. Greenhouse; and
 - d. Mechanical equipment.

Charlotte, NC

Within Transit Oriented Development Ordinance, Rooftop structures are permitted as an accessory structure.

F. Flat Roof Features

- Accessory rooftop features of a flat roof, such as green roofs, rooftop decks, rooftop gardens, and stormwater management systems are permitted on any flat roof building.

Definition:

Outdoor Seating/Activity Area. An outdoor seating/activity area as an accessory use is located outside the permanent enclosed area, and is used for seating, for food and/or beverage consumption, and/or participatory activities. This includes, but is not limited to, areas such as patios, decks, rooftops, and open areas.

- 3. Outdoor Entertainment and Outdoor Seating/ Activity Area. If at any time between the hours of 11:00 p.m. and 8:00 a.m., food and/ or beverages are consumed in an outdoor seating/activity area or outdoor entertainment occurs, it shall meet the following:
 - a. The outdoor seating/activity area or outdoor entertainment shall be separated by a distance of at least 100 feet from the nearest property line of a vacant lot or a residential use when such vacant lot or residential use is located in a single family zoning district.
 - b. If the outdoor seating/activity area or outdoor entertainment is less than 100 feet from the nearest property line of a vacant lot or a residential use when such vacant lot or residential use is located in a single-family residential zoning district, then the area shall be separated by a Class A buffer, as described in Section 12.302 of this Ordinance, along all corresponding side and rear property lines.
 - c. Distances are measured from the closest edge of any outdoor seating/activity area or outdoor entertainment to the nearest property line of a vacant lot or a residential use when such vacant lot or residential use is located in a single-family residential zoning district.

Occupiable Roof Criteria per Building Code

- The roof of a building that has a portion of, or all, to be used in the way you have described is an Assembly A-3 Occupancy per 303.4-2018 NCBC.
 - Proposed roof top Assembly areas that do not have a roof covering are still Assembly A-3 Occupancies.
 - A-3 Occupancies that are located somewhere other than on the *Level Of Exit Discharge* shall be sprinklered per 903.2.1.2(3)-2018 NCBC; this Code section involves the Code term *Fire Area*.

FIRE AREA. The aggregate floor area enclosed and bounded by *fire walls, fire barriers, exterior walls or horizontal assemblies* of a building. Areas of the building not provided with surrounding walls shall be included in the *fire area* if such areas are included within the horizontal projection of the roof or floor next above.

- A project with no roof covering over their A-3 area would not have to be included in the *Fire Area* and therefore not required to have sprinklers.
 - However, it is possible that a roof covering of some kind could be installed over the A-3 area(s) at a later time, thus requiring plan review, permitting through MCCE, and sprinklers.
- Another consideration is the type of roof structure above the A-3 area
 - Canopies are regulated per Section 3105-2018 NCBC and canopies greater than 15' as measured perpendicular to the wall attachment are no longer considered canopies but are additions which trigger other Code requirements for existing building projects.
- Under the present code, an occupied roof is not a story unless it has a roof structure over it.
 - Once a roof is involved, we have two reference points to establish a story – a floor and a roof. If the occupiable area has some kind of a roof, canopy, overhang, etc... it shall be considered to be a story. A roof would include fabric canopies (but not open trellis's where protection from the weather is not provided) and if the fabric canopy can trap smoke and hot gases and is permanently affixed to the building.
 - The Code definition of a Story is:

STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above (see "*Basement*," "*Building height*," "*Grade plane*" and "*Mezzanine*"). A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.
 - Roof top structure and penthouse information from the code:

ROOFTOP STRUCTURE. A structure erected on top of the *roof deck* or on top of any part of a building.

[BG] 1510.2.3 Use limitations. Penthouses shall not be used for purposes other than the shelter of mechanical or electrical equipment, tanks, or vertical shaft openings in the roof assembly.

❖ The use of the penthouse is also limited. Regardless of height or area, roof structures used for anything except sheltering electrical or mechanical equipment or vertical shaft openings must be considered as an additional story.

- Exits: An Assembly occupancy on a rooftop always requires 2 exits. If the building is over 2 stories, any occupancy on the roof would require 2 exits at least.
- Accessibility: If the occupiable roof area is over 3,000 sf and requires an Accessible Route, an elevator is required.
- Allowable # of stories is based upon Occupancy Group/Classification and Construction Type under Table 504.4-2018 NCBC

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Brian Richards

Date: March 7, 2022

Subject: R21-17 HFH Partners, LLC Rezoning.

EXPLAIN REQUEST:

Conduct a Public Hearing on Petition #R21-17, a request by HFH Partners, LLC to rezone (+/- 3.8 acres) 202, 204, 206, 208 Gilead Rd from Neighborhood Residential District (NR) to Traditional Neighborhood Development Urban Conditional District (TND-U-CD) for a mixed-use development (Parcel #s 01712112, 01712111, 01712110, 01712109).

ACTION RECOMMENDED:

Conduct a Public Hearing on Petition #R21-17, a request by HFH Partners, LLC to rezone (+/- 3.8 acres) 202, 204, 206, 208 Gilead Rd from Neighborhood Residential District (NR) to Traditional Neighborhood Development Urban Conditional District (TND-U-CD) for a mixed-use development (Parcel #s 01712112, 01712111, 01712110, 01712109).

FINANCIAL IMPLICATIONS:

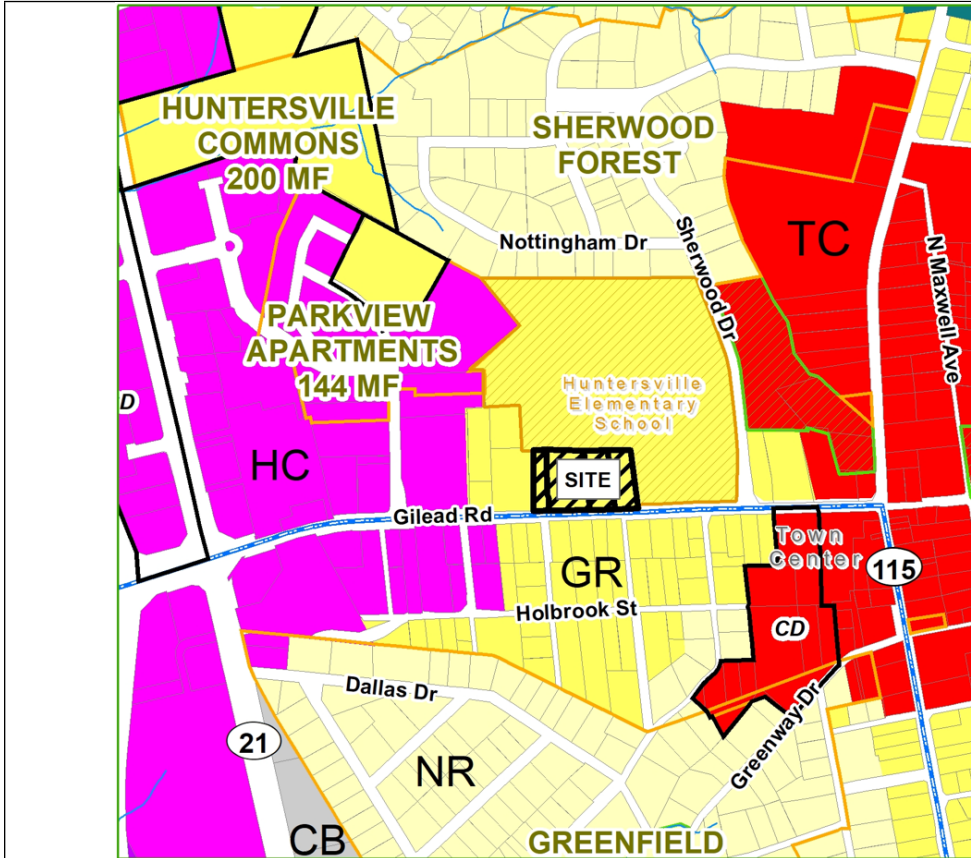
n/a

ATTACHMENTS:

1. R21-17 PH Gilead Mixed Use Staff Report 3-7-22
2. A - R21-17 GRMU Application
3. B - R21-17 GRMU Rezoning Plans
4. C - GRMU Neighborhood Meeting Report (December 14, 2021)
5. D - CMS GRMU Report
6. E - Charlotte Water WTS Letter GRMU

Petition R21-17 Gilead Road Mixed Use

PART 1: PROJECT SUMMARY



Applicant: HFH Partners, LLC

Property Owner: HFH Partners & Irvin Hager

Property Address: 202, 204, 206, 208 Gilead Rd

Project Size: (+/-) 3.8 acres

Parcel Numbers: 01712109, 01712110, 01712111, 01712112

Current Zoning: Neighborhood Residential (NR)

Current Land Use: Single Family & Vacant.

Proposed Zoning: Traditional Neighborhood Development Urban Conditional District (TND-U-CD)

Proposed Land Use: Commercial & Townhomes.

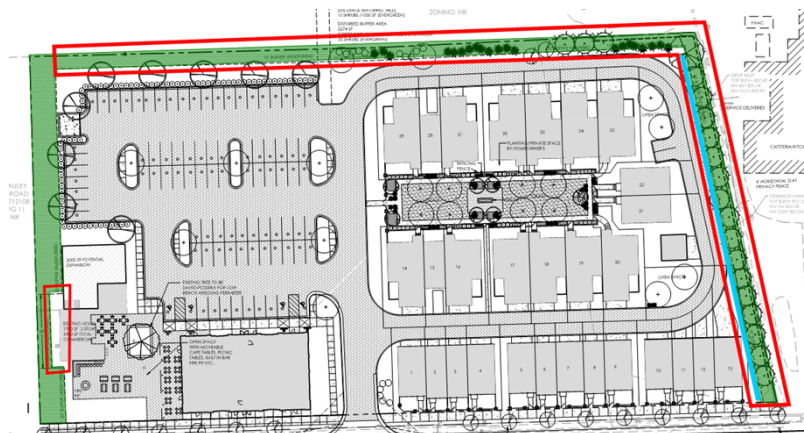
1. Purpose: Rezone 3.8 acres along Gilead Rd east of US 21 from Neighborhood Residential (NR) to Traditional Neighborhood Development Urban Conditional District (TND-U-CD) for 29 Townhomes (7.6 DUA) and up to 19,000 sf of Commercial Use.
2. Adjoining Zoning and Land Uses.
 - North: Neighborhood Residential – Huntersville Elementary School.
 - South: Neighborhood Residential – Residential & Commercial Uses.
 - East: Neighborhood Residential – Huntersville Elementary School.
 - West: Neighborhood Residential – Residential Use.
3. A neighborhood meeting was held on December 14, 2021, and the questions asked by residents and the responses from the applicants are summarized in the Neighborhood Meeting Report (see Attachment C).
4. Notice for this rezoning petition was sent via a postcard to adjoining property owners; a legal ad placed in the Charlotte Observer; and posting of rezoning signs on the property along Gilead Rd.

PART 2: REZONING/SITE PLAN

The proposed Conditional District Rezoning Plan is generally compliant with the Zoning and Subdivision Regulations. Significant elements include:

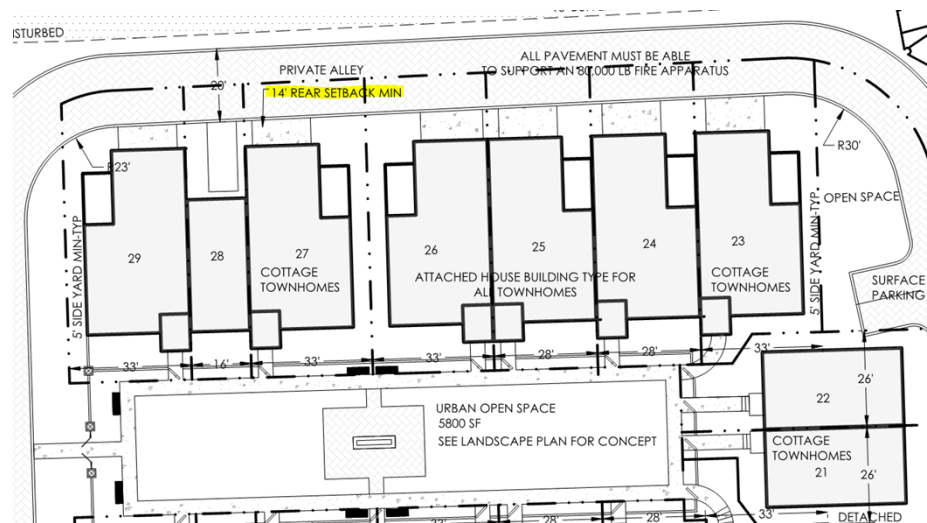
- Two Commercial Buildings and Twentynine Townhomes are being proposed.
- Two Urban Open Spaces (Plaza and Pedestrian Passageway).
- A Vegetated Buffer is being offered around the perimeter as well as a privacy fence (along the eastern boundary).
- A future greenway connection is being offered along the northern property boundary.
- Minimum Tree Preservation (specimen tree save) for the Traditional Neighborhood Development District is 30%. The Rezoning Plan contains 19 specimen trees and proposes to save 2 trees (12%). Staff is working with the applicant to create a compliant mitigation plan.
- The Traditional Neighborhood Development District does not have a canopy tree save requirement.
- There are no identified Heritage Trees on site.
- Building elevations for the proposed structures have been submitted. Architectural renderings have been provided (Attachment B).
- Planning, Transportation, and Storm Water Engineering staff have site plan comments outstanding that need to be addressed prior to final plan approval.
- Four (4) Ordinance Modifications are proposed:
 1. Article 7.5: Buffer Yards – Requires a 20' Buffer along the perimeter of the Development. The applicant is requesting to reduce the buffer yard to 10' along the east and north property lines as well as a small reduction on the west property line where there is an existing HVAC system.

STAFF COMMENT – The applicant is offering a higher percentage of evergreen plantings for the entire buffer area as well as a 6' privacy fence along the east property line to mitigate the visual impact of the reduced buffer yard. The north and east property lines abut Huntersville Elementary School and there are no residential impacts in these areas. Additionally, LU Policy 8.2 supports buffer reductions when projects of high design standards are proposed. This is in keeping with the Spirit of the Ordinance, staff DOES SUPPORT this modification request



2. Article 4 Attached House Building Type (Rear Setback) – Requires a Rear Setback of 20-25'. The applicant is requesting a minimum Rear Setback of 14'. This is to allow for Urban Open Space size to be maximized.

STAFF COMMENT – The applicant is offering a well-designed Pedestrian Passageway for the interior Townhomes to front upon. Article 8.1.4 A site specific development plan may be considered for approval in the TC, NC, NR, R, TR, HC, CB, CI, VS and both TND and TOD districts where residential and/or non-residential lots and/or structures front upon a private courtyard, carriageway, mid-block private alleyway with courtyard, or pedestrian way, or urban open space as defined in Article 7, part B, where adequate access by emergency vehicles is maintained by way of a street or alley and where the off-street placement of uses does not diminish the orientation of building fronts to the public street. Additionally, LU Policy 8.1 encourages flexibility in design regulations including setback. This is in keeping with the Spirit of the Ordinance, staff DOES SUPPORT this modification request.



3. Article 4 Attached House Building Type (Height) - Requires a maximum height of 30' (measured at the building eaves). The applicant is requesting a height of up to 33' for the Townhomes that front upon Gilead Rd. The additional height will be utilized to break up the building facades and allow for the integration of vertical relief and varying architectural features.

STAFF COMMENT – The applicant is offering building elevations as part of this rezoning (Attachment B). Article 4 states that “The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street” The additional height along with the proposed elevations achieves this goal. Additionally, LU Policy 8.2 supports modifications of height limits when projects of high design standards are proposed. This is in keeping with the Spirit of the Ordinance, staff DOES SUPPORT this modification request

4. Article 7.7.3 Street Trees and Internal Landscaping – Requires 1 Front Yard and 1 Rear Yard Canopy Tree. The applicant is requesting that this requirement be waived due to small lots (+/- 1,000 to 2,7000 sf) and the lack of space which would allow for the Canopy Tree to survive and flourish.

STAFF COMMENT – The request to remove the required yard trees is not consistent with the intent of Zoning Ordinance. Staff will continue discussions with the applicant to explore options or mitigation. Currently Staff does not have a position on the modification

Lot Size	Required Number of Canopy Trees
Less than 10,000 sq./ft.	1 Front yard, 1 Rear Yard
10,000 -15,000 sq./ft.	1 Front yard, 2 Rear Yard
15,001 – 20,000 sq./ft.	2 Front yard, 2 Rear Yard
More than 20,000 sq./ft.	3 Front yard, 3 Rear Yard

PART 3: TRANSPORTATION ISSUES

Traffic Impact Analysis (TIA)

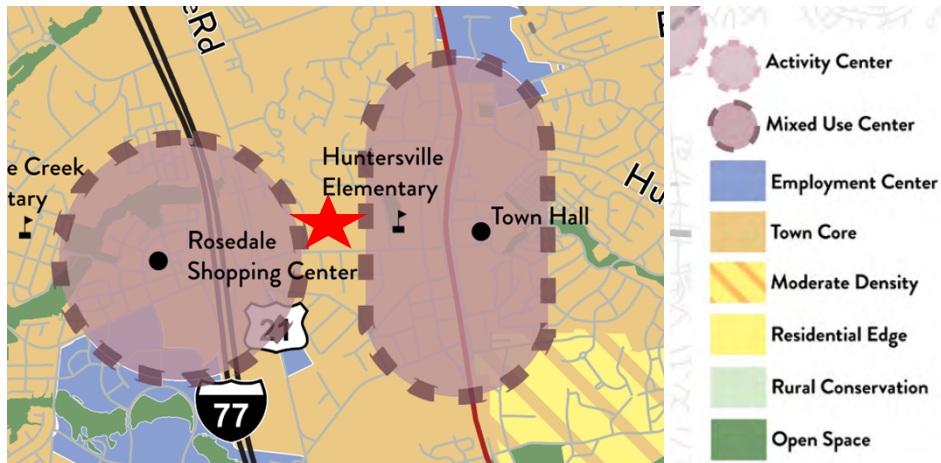
A Town TIA for the development was not required.

NCDOT also did not require a TIA. The dual turn lane adjacent to the site will be resurfaced and restriped.

PART 4: REZONING CRITERIA

Article 11.4.7(d) of the Zoning Ordinance states that “in considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision shall take into consideration any identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents”.

2040 Huntersville Community Plan





Town Core

The Town Core designation includes a variety of neighborhoods containing a mix of residential housing types, including single-family homes, townhomes, and apartments. Their design focuses on traditional neighborhood planning principles, including short blocks, connected streets, streetscape standards, and other features that improve walkability. These areas are denser than the "Moderate Density" and "Residential Edge" character areas and may include non-residential development as specified in small area plans and at other sites that meet locational criteria.



Downtown - Tier 2

Generally 2-3 stories. Predominately residential with some small-scale commercial and/or office. Reuse of structures on main roads. Residential can include townhomes, duplexes, triplexes, quadplexes, and urban single-family home types, including alley-loaded bungalows, pocket neighborhoods and cottage courts.

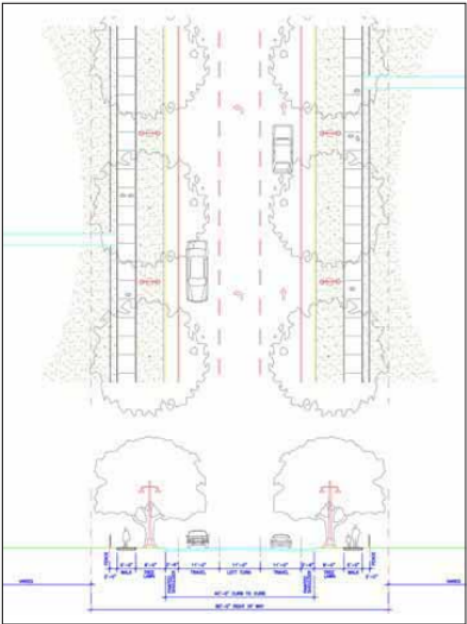
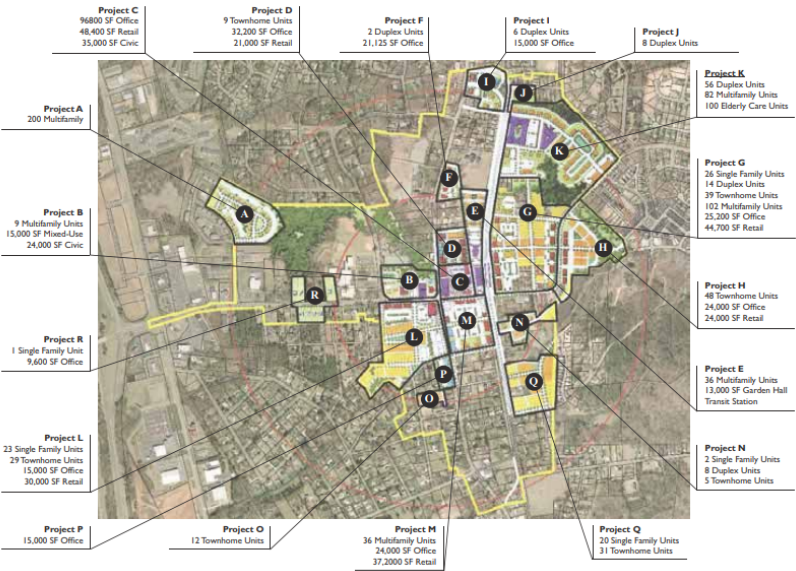
STAFF COMMENT – The 2040 Huntersville Community Plan DOES SUPPORT this project through the following sections:

- **Policy LU 2.1:** Higher intensity residential uses will be focused generally within 2 miles of the I77/NC115 corridor and future activity centers in the eastern and western areas of Huntersville zoning jurisdiction.
- **Policy LU 5.1:** Allow for more intense development only where transportation infrastructure and utilities already exist.
- **Policy LU 5.3:** Support infill housing options near services, shopping, employment, and transit stations.
 - Encourage infill development opportunities to increase housing options with proximity to nearby services, shopping, employment opportunities, and transit stations.
- **Policy LU 6.2:** Commercial uses are encouraged in the Town Core and as specified in adopted Small Area Plans.
- **Policy LU 6.3:** Small scale, neighborhood-serving commercial and office uses may be allowed in Town Core and Moderate Density areas specified on the Future Land Use map at key locations if designed in a context sensitive manner.
- **Policy LU 7.1:** Require all new development to adhere to the following design principles: In Mixed Use Centers, Activity Centers, Town Core, and Moderate Density Areas, Streets and sidewalk are meant to be attractive and inviting. New development in these areas shall follow these principles:
 - In Mixed-Use Centers, Activity Centers, Town Core, and Moderate Density Areas, streets and sidewalks are meant to be attractive and inviting. New development in these areas shall follow these principles:

- All buildings shall front a public street or open space.
 - Streets should be connected, have short blocks and sidewalks on both sides of streets.
 - Improve connectivity, particularly for pedestrians and vehicles.
 - Parking lots, if required, should be predominately located behind buildings screened from view and larger lots should be broken by buildings and or landscape features.
 - In lower intensity areas (including MD, RE, RC, CW) preservation of rural character and natural resources are prioritized.
 - In these areas, structures can be set back further from the road and should blend into the landscape and the scenic nature of roadways should be preserved.
- **Policy LU 8.1:** Continue to emphasize form and flexibility in development regulations for these areas.
 - The current zoning ordinance has basic form based standards with flexibility built-in. Key elements include allowing multiple types of land uses, a mix of uses, minimal setbacks, and parking requirements.
- **Policy LU 8.2:** Evaluate and strengthen incentives to encourage the achievement of higher design standards.
 - Incentives that could include:
 - Modification of height limit.
 - Reduced buffer yard requirements.
- **Policy EV 2.3:** Attract business to Downtown.
 - Encourage new businesses that help Downtown meet the 10|10|10 goal of having 10 places that serve food, 10 retail establishments (non-chain and not thrift stores) and 10 businesses open after 6 pm.
- **Policy DT 1.3:** In Tier 2 areas, create a transitional area from the core of Downtown to surrounding residential neighborhoods.
 - This area contains mostly residential uses with some office and commercial space at lower intensities than Tier 1.
 - Residential can include townhomes, duplexes, triplexes, quadplexes, and urban single-family home types including alley-loaded bungalows and other house-scale development types such as pocket neighborhoods and cottage courts.
- **Policy DT 11.1:** Allow and encourage residential development in Downtown Huntersville, including for-sale and rental housing integrated with commercial uses.

Downtown Master Plan (2006)

The 2006 Plan identified this site for potential redevelopment (as shown 9,600 sf office and 1 additional Single-Family Unit).



Alternate Streetscape treatment for Gilead Road with relocated utilities, canopy trees between the sidewalk and the street, and bike lanes

The 2006 Plan also recommends relocating utilities for the Gilead Road Gateway Corridor (80' of Right of Way with Bike Lanes, Wide Sidewalks, and a single row of street trees).

Article 11 Section 11.4.7(e) of the Zoning Ordinance states that: “in considering any petition to reclassify property the Planning Board in its recommendation and the Town Board in its decision should consider:

- 1. Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property.**

STAFF COMMENT:

The proposed rezoning for the Gilead Road Mixed Use Development is consistent with envisioned uses and development pattern set forth in the 2040 Community Plan and 2006 Downtown Master Plan.

- 2. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies, and wastewater and refuse disposal.**

STAFF COMMENT:

- A Transportation Impact Analysis was not required – see Part 3 of this report.
- CMS has provided an impact statement (Attachment D)
- Charlotte water has provided a “Willingness-to-serve” letter (Attachment E). Storm water drainage, water supplies and wastewater and refuse disposal are all available to serve this project and there is capacity to do so. A PCO-1 storm water approval from Town Engineering is required, as well.

- 3. Whether the proposed reclassification will adversely affect a known archeological, environmental, historical or cultural resource.”**

STAFF COMMENT:

Planning staff has no indication that the request will adversely affect known archeological, environmental, or cultural resources. The site is not encumbered by any historic easements or deed restrictions.

PART 5: STAFF RECOMMENDATION

In considering the proposed rezoning petition R21-17, Gilead Road Mixed Use Staff could recommend approval if outstanding Staff comments are addressed as well as resolving Modification #4 (Internal Landscaping). The amendment being consistent with the Huntersville 2040 Community Plan policies LU 2.1, LU 5.1, LU 5.3, LU 6.2, LU 6.3, LU 7.1, LU 8.1, LU 8.2, EV 2.3, DT 1.3, and DT 11.1

It is reasonable and in the public interest to amend the Zoning Ordinance because the rezoning is consistent with the envisioned uses and development pattern set forth in the 2040 Community Plan and 2006 Downtown Master Plan. Modification #1 (Buffer Yard), Modification #2 (Rear Setback), and Modification #3 (Building Height) are in keeping with the Spirit of the Ordinance and therefore supported.

PART 6: PUBLIC HEARING COMMENTS

A Public Hearing is scheduled for March 7, 2022.

PART 7: PLANNING BOARD RECOMMENDATION

Planning Board is scheduled for March 22, 2022.

PART 8: TOWN BOARD CONSIDERATION

Town Board consideration is scheduled for April 18, 2022.

PART 9: ATTACHMENTS/ENCLOSURES

Attachments

- A – R21-17 GRMU Application
- B – R21-17 GRMU Rezoning Plan
- C – GRMU Neighborhood Meeting Report (December 14, 2021)
- D – CMS GRMU Report
- E – Charlotte Water WTS Letter GRMU

PART 10: CONSISTENCY STATEMENT – R21-17 Gilead Road Mixed Use

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed rezoning petition R21-17, Gilead Road Mixed Use Staff could recommend approval if outstanding Staff and NCDOT comments are addressed. The amendment being consistent with the Huntersville 2040 Community Plan policies LU 2.1, LU 5.1, LU 5.3, LU 6.2, LU 6.3, LU 7.1, LU 8.1, LU 8.2, EV 2.3, DT 1.3, and DT 11.1. <u>It is reasonable and in the public interest to amend the Zoning Ordinance because the rezoning is consistent with the envisioned uses and development pattern set forth in the 2040 Community Plan and 2006 Downtown Master Plan. Modification #1 (Buffer Yard), Modification #2 (Rear Setback), and Modification #3 (Building Height) are in keeping with the Spirit of the Ordinance and therefore supported</u>	APPROVAL: In considering the proposed rezoning application R21-17, Gilead Rd Mixed Use, the Planning Board recommends approval based on the Plan being consistent with <u>(insert applicable plan reference)</u>. <u>It is reasonable and in the public interest to approve the Rezoning Plan because... (Explain)</u>	APPROVAL: In considering the proposed rezoning application R21-17, Gilead Rd Mixed Use, the Town Board recommends approval based on the Plan being consistent with <u>(insert applicable plan reference)</u>. <u>It is reasonable and in the public interest to approve the Rezoning Plan because... (Explain)</u>
	DENIAL: In considering the proposed rezoning application R21-17, Gilead Rd Mixed Use, the Planning Board recommends denial based on the Plan being <u>(consistent OR inconsistent) with (insert applicable plan reference)</u>. <u>It is not reasonable and in the public interest to approve the Rezoning Plan because... (Explain)</u>	DENIAL: In considering the proposed rezoning application R21-17, Gilead Rd Mixed Use, the Town Board recommends denial based on the Plan being <u>(consistent OR inconsistent) with (insert applicable plan reference)</u>. <u>It is not reasonable and in the public interest to approve the Rezoning Plan because... (Explain)</u>



General Application

INCOMPLETE SUBMISSIONS WILL NOT BE ACCEPTED. PLEASE CHECK ALL ITEMS CAREFULLY.

1. Application Type

Please indicate the type of application you are submitting. In addition to the application, the submission process for each application type can be found at <https://www.huntersville.org/528/Permits-Process>

- ☐ Change of Use
- ☐ Commercial Site Plan
- ☐ Conditional Rezoning
- ☒ General Rezoning
- ☐ Master Signage Program
- ☐ Special Use Permit
- ☐ Revision to
Original Project # _____
- ☐ Other _____

- SUBDIVISION CATEGORIES: Per the Huntersville Subdivision Ordinance
- ☐ Sketch Plan
 - ☐ Preliminary Plan
 - ☐ Final Plat (Includes Minor Subdivision)
 - ☐ Exempt Subdivision
 - ☐ Final Plat Revision
 - ☐ Farmhouse Cluster

2. Project Data

Date of Application November 3, 2021

Name of Project Gilead Road Mixed Use Phase # (if subdivision) _____

Project Address 202,204,206,208 Gilead Road

Parcel Identification Number(s) (PIN) 01712112, 01712111, 01712110, 01712109

Current Zoning District NR Proposed District (for rezoning only) TND (CD)

Property Size (acres) 3.8 Street Frontage (feet) 560'

Current Land Use Residential and vacant

Proposed Land Use(s) Activity Center (Townhomes, commercial)

Is the project within Huntersville's corporate limits?

Yes x No _____ If no, does the applicant intend to voluntarily annex? _____

3. Description of Request

Explain the nature of this request. If a separate sheet is necessary, please attach to this application.

Rezone parcels to allow mixed-use commercial and attached townhomes. The parcel is to be developed in
harmony with adjacent land uses to form an overall Traditional Neighborhood Development project that compliments
the Activity Center designation on the 2040 plan for Downtown Huntersville.

4. Site Plan Submittals

Consult the particular type of *Review Process* for the application type selected above. These can be found at <https://www.huntersville.org/528/Permits-Process>.

5. Outside Agency Information

Other agencies may have applications and fees associated with the land development process. The *Review Process* list includes plan documents needed for most town and county reviewing agencies. For major subdivisions, commercial site plans, and rezoning petitions please enclose a copy of the Charlotte-Mecklenburg Utility *Willingness to Serve* letter for the subject property.

6. Applicant

Printed Name HFH Partners, LLC Phone 704-875-1615
☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature Jay A. Henson Printed Name: Jay Henson

Title Member/Manager Email jay@hensonfoley.com

Address of Applicant 121 Gilead Road Huntersville, NC 28078

7. Property Owner (if different than applicant)

*Printed Name HFH Partners, LLC (01712109, 01712110) (see attached addendum for other parcels) Phone 704-875-1615
☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature Jay A. Henson Printed Name Jay Henson

Title Member/Manager Email jay@hensonfoley.com

Address of Property Owner 121 Gilead Road Huntersville, NC 28078

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this application **MUST** be accompanied by a notarized Limited Power of Attorney signed by the property owner (s), specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an **INVALID APPLICATION**. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

8. Development/Design Firm Contact Information

HFH Partners, LLC	Jay Henson	704-875-1615	jay@hensonfoley.com
Development Firm	Name of Contact	Phone	Email
HensonFoley	Jay Henson	704-875-1615	jay@hensonfoley.com
Design Firm	Name of Contact	Phone	Email

Contact Information

Town of Huntersville	Phone:	704-875-7000
Planning Department	Fax:	704-992-5528
PO Box 664	Physical Address:	105 Gilead Road, Third Floor
Huntersville, NC 28070	Website:	https://www.huntersville.org/228/Planning-Department



General Application
Owner/Applicant Signature Addendum

Application Information

Date of Application November 3, 2021 Application Number _____

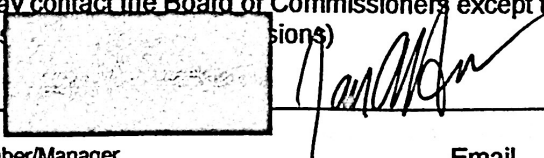
Name of Project Gilead Road Mixed Use Phase # (if subdivision) _____

Additional Owners/Applicants: (Signature indicates intent that this page be affixed to Application.)

* ^ Printed Name HFH Partners, LLC Phone Number 704-875-1615

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant/owner (circle one) my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature  Parcel ID(s): 01712111, 01712112

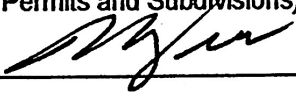
Title Member/Manager Email jay@hensonfoley.com

Address of Property Owner/Applicant 121 Gilead Road Huntersville, NC 28078

* ^ Printed Name Irvin R. Hager Phone Number 704-363-2710

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant/owner (circle one) my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature  Parcel ID(s): 01712111

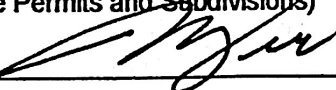
Title Owner Email irv and Beccy @ AOL.Com.

Address of Property Owner/Applicant _____

* ^ Printed Name Hager Enterprises, LLC Phone Number 704-363-2710

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant/owner (circle one) my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature  Parcel ID(s): 01712112

Title Owner Email irv and Beccy @ AOL.Com.

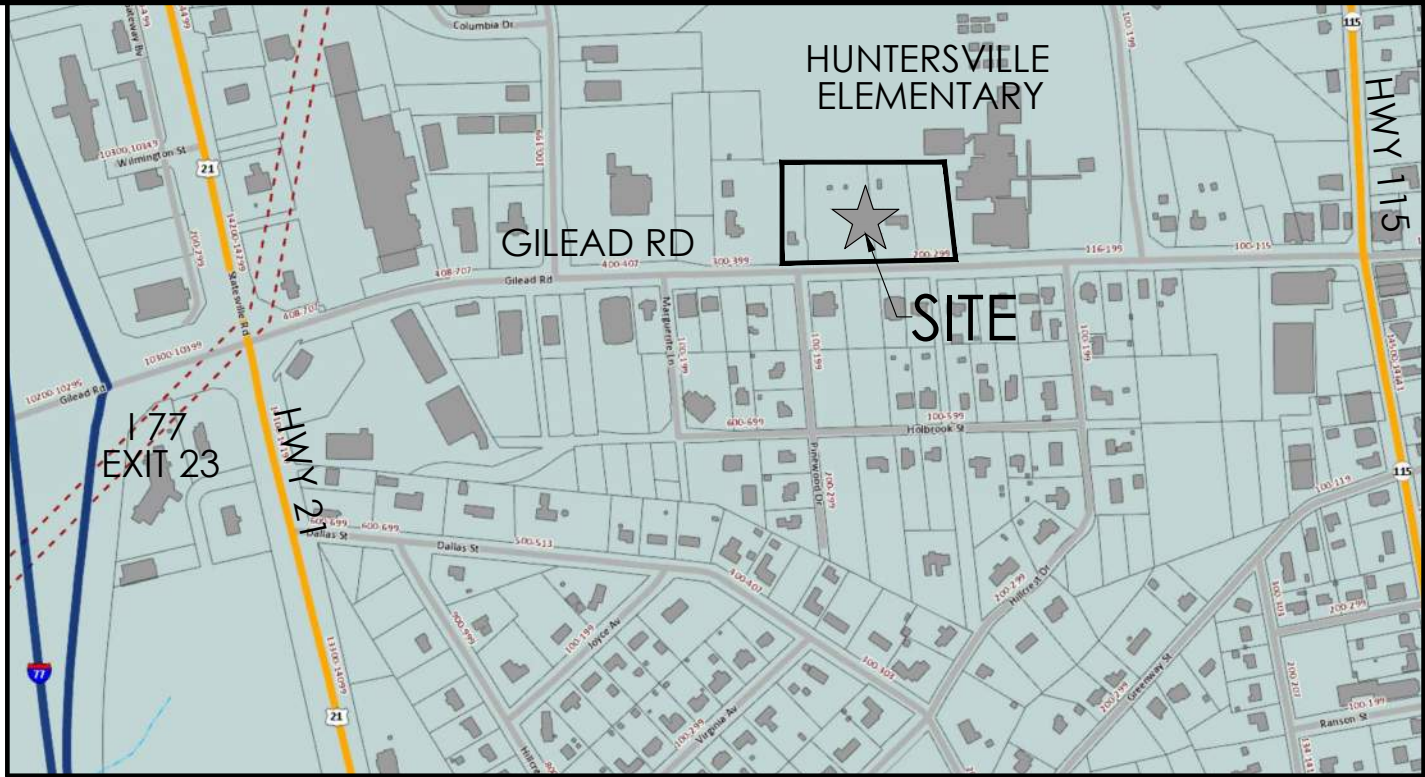
Address of Property Owner/Applicant _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

^ If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION.

SHEET INDEX

C01	COVER SHEET
C02	DEMO AND EXISTING CONDITIONS
C03	TREE SAVE PLAN
C04	SITE PLAN
C05	GRADING PLAN
C06	UTILITY PLAN
C07	DETAILS
C08	LANDSCAPE PLAN
C09	SIGHT DISTANCE PROFILE



VICINITY MAP
SCALE: N.T.S.





HensonFoley

LandscAPE Architecture | Civil Engineering

121 Gilead, Huntersville, NC 28078

p: 704.875.1615 | f: 704.875.0959 | www.hensonfoley.com

NC ENGINEERING BOARD LICENSE #: C-3781

NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399

R 21-17
REZONING PLAN PACKAGE

GILEAD ROAD MIXED USE PROJECT
HUNTERSVILLE, NC
EPM # 430772

DEVELOPER:
HFH PARTNERS, LLC
121 GILEAD ROAD
HUNTERSVILLE, NC 28078
PH: (704) 875-1615

OWNER:
HFH PARTNERS, LLC
121 GILEAD ROAD
HUNTERSVILLE, NC 28078
PH: (704) 875-1615

TIA
A TIA SCOPING PLAN WAS SUBMITTED TO THE TOWN OF HUNTERSVILLE AND NCDOT. THERE ARE NO REQUIREMENTS FOR A TIA.

LIST OF MODIFICATIONS

- ARTICLE 7.5 BUFFERS
- DUE TO THE EXISTING CONDITIONS, THE APPLICANT REQUESTS A WAIVER TO THE 20' BUFFER ALONG THE EAST AND NORTH PROPERTY LINES. (AS SHOWN) THE ADJACENT PROPERTY TO THE EAST AND NORTH IS OWNED BY CHARLOTTE/MECKLENBURG COUNTY BOARD OF EDUCATION AND IS OCCUPIED BY HUNTERSVILLE ELEMENTARY. THE REQUEST IS TO ALLOW A 10' UNDISTURBED BUFFER EAST, 10' DISTURBED BUFFER WHERE SHOWN ALONG THE NORTH, AND A 10' UNDISTURBED BUFFER NEAR THE COMMERCIAL PARKING AREA AS NOTED ON PLAN.

THERE IS A PORTION OF THE EXISTING HOME (TO REMAIN) THAT WILL NOW ENCROACH INTO THE BUFFER. THIS IS AN EXISTING CONDITION. THE REQUEST IS TO ALLOW THE BUFFER WITHIN THE VICINITY OF THE EXISTING STRUCTURE BE MODIFIED TO 10'. THIS WILL ALLOW THE EXISTING ACCESS, MAINTENANCE AND HVAC SYSTEM TO REMAIN.
- ARTICLE 4 ATTACHED HOUSE SETBACKS
- RELIEF FROM THE REQUIRED REAR SETBACK OF 20'-25' IS REQUESTED. THE PETITIONER REQUEST MINIMUM REAR SETBACK OF 14'. THIS REQUEST WILL ALLOW THE INTERIOR OPEN SPACE TO BE MAXIMIZED.
- ARTICLE 4 ATTACHED HOUSE BUILDING HEIGHT
- RELIEF FROM THE 30' BUILDING HEIGHT IS REQUESTED IN ORDER TO BREAK UP THE STREET FACADES ALONG GILEAD ROAD. THE INTEGRATION OF VERTICAL RELIEF AND VARYING ARCHITECTURAL FEATURES WILL REQUIRE THE NEW BUILDING HEIGHT FOR BUILDINGS ALONG GILEAD ROAD TO BE 33'.



GILEAD ROAD MIXED USE

PARCEL ID #S 01712109, 01712110, 01712111, 01712112
202,204,206,208 GILEAD ROAD HUNTERSVILLE, NC

COVER

REVISIONS:	
JANUARY 27, 2022 PER TOWN REVIEW	

C01 - COVER.DWG	
PROJECT NUMBER:	221015
DATE: 11/22/2021	DRAWN BY: JAH
SHEET	C01 OF 09

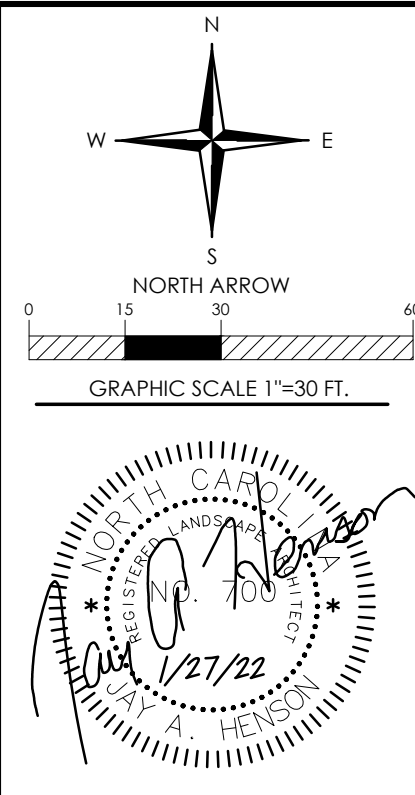
1. CONTRACTOR RESPONSIBLE FOR COORDINATING ANY UTILITY REMOVAL WITH CORRESPONDING UTILITY COMPANY.
2. IF ANY WELLS AND/OR SEPTIC SYSTEMS ARE DISCOVERED ON SITE, CONTRACTOR TO COORDINATE ABANDONMENT WITH THE MECKLENBURG COUNTY HEALTH DEPARTMENT.

COMPLETE BOUNDARY FOR TRACT PREPARED BY
DUNBAR GEOMATICS-CORNELIUS NC

TOPOGRAPHIC SURVEY FOR 202,204 GILEAD ROAD
PROVIDED BY DUNBAR GEOMATICS-CORNELIUS

TREE/UTILITY SURVEY FOR 202,204 GILEAD ROAD
PREPARED BY DUNBAR GEOMATICS-CORNELIUS

TOPOGRAPHIC AND TREE SURVEY FOR 206,208 GILEAD
ROAD PREPARED BY PPLS-CORNELIUS



DEMO AND EXISTING CONDITIONS

JANUARY 27, 2022 PER TOWN REVIEW

TOTAL EXISTING SPECIMEN TREES	19
TOTAL SPECIMEN TREES REMOVED	17
TOTAL SPECIMEN TREES SAVED	2 (12%)
REQUIRED SPECIMEN TREES TO BE SAVED	6 (30%)
TREES TO BE MITIGATED	4



FREE SAVE PLAN

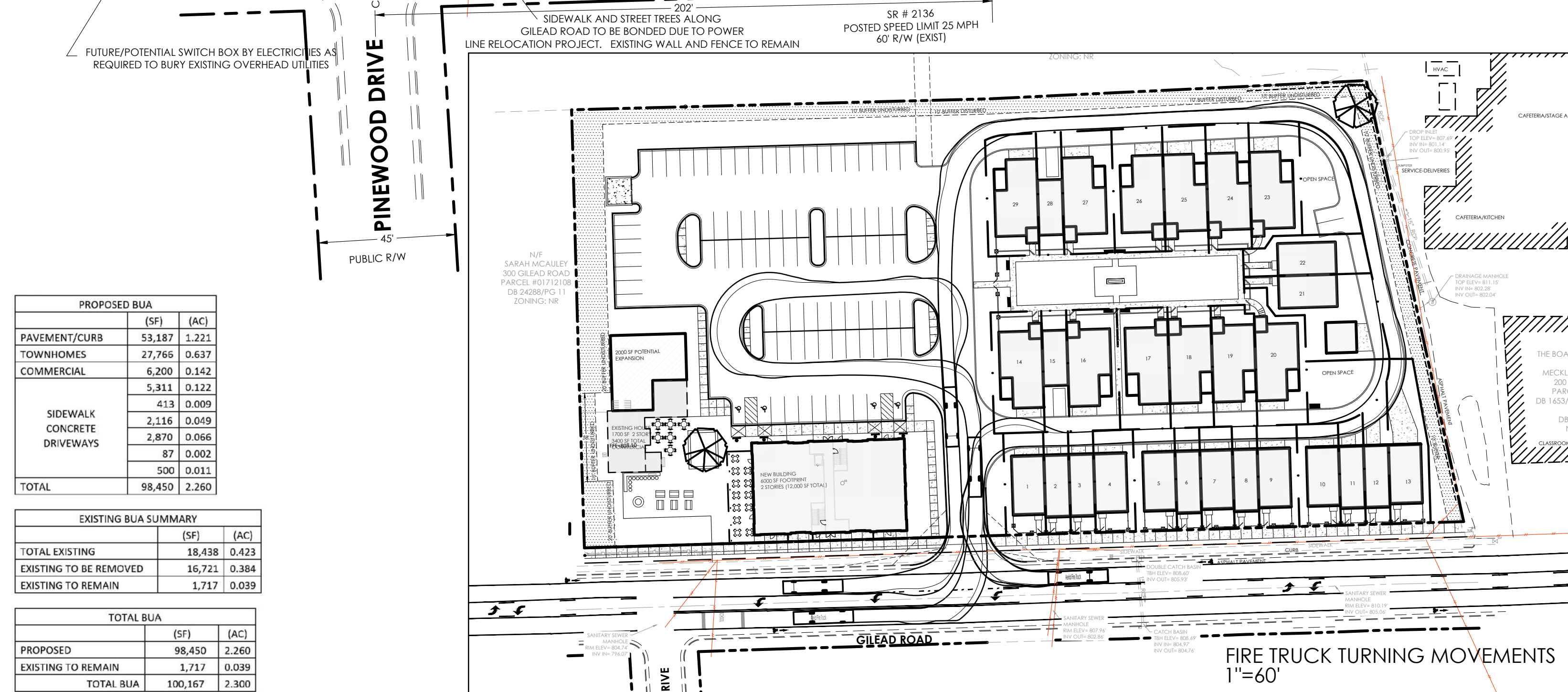
JANUARY 27, 2022 PER TOWN REVIEW

SUBJECT NUMBER: 221015

E: 11/22/2021 DRAWN BY: JAI

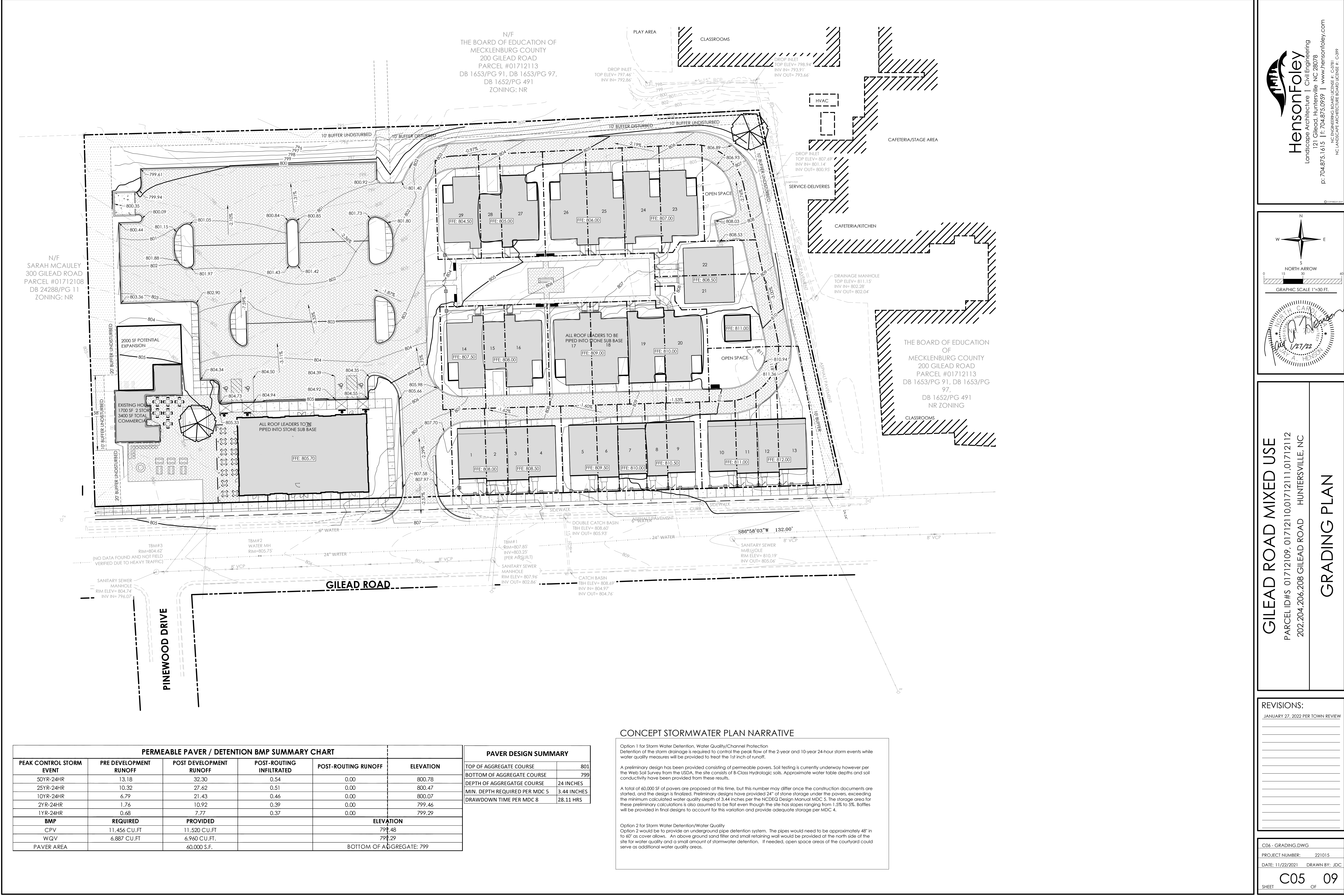
C03 09

IF ANY CONFLICTS, DISCREPANCIES, OR OTHER UNSATISFACTORY CONDITIONS ARE DISCOVERED, EITHER ON THE CONSTRUCTION DOCUMENTS OR THE FIELD CONDITIONS, THE CONTRACTOR MUST NOTIFY HENSON FOLEY, INC IMMEDIATELY, AND SHALL NOT COMMENCE OPERATION UNTIL THE CONFLICTS, DISCREPANCIES, OR OTHER UNSATISFACTORY CONDITIONS ARE RESOLVED.



SITE PLAN

SHEET _____ OF _____



PERMEABLE PAVER / DETENTION BMP SUMMARY CHART					
PEAK CONTROL STORM EVENT	PRE DEVELOPMENT RUNOFF	POST DEVELOPMENT RUNOFF	POST-ROUTING INFILTRATED	POST-ROUTING RUNOFF	ELEVATION
50YR-24HR	13.18	32.30	0.54	0.00	800.78
25YR-24HR	10.32	27.62	0.51	0.00	800.47
10YR-24HR	6.79	21.43	0.46	0.00	800.07
2YR-24HR	1.76	10.92	0.39	0.00	799.46
1YR-24HR	0.68	7.77	0.37	0.00	799.29
BMP	REQUIRED	PROVIDED			ELEVATION
CPV	11,456 CU.FT	11,520 CU.FT			799.48
WQV	6,887 CU.FT	6,960 CU.FT			799.29
PAVER AREA		60,000 S.F.			BOTTOM OF AGGREGATE: 799

PAVER DESIGN SUMMARY	
TOP OF AGGREGATE COURSE	801
BOTTOM OF AGGREGATE COURSE	799
DEPTH OF AGGREGATGE COURSE	24 INCHES
MIN. DEPTH REQUIRED PER MDC 5	3.44 INCHES
DRAWDOWN TIME PER MDC 8	28.11 HRS

CONCEPT STORMWATER PLAN NARRATIVE

Option 1 for Storm Water Detention, Water Quality/Channel Protection
Detention of the storm drainage is required to control the peak flow of the 2-year and 10-year 24-hour storm events while water quality measures will be provided to treat the 1st inch of runoff.

A preliminary design has been provided consisting of permeable pavers. Soil testing is currently underway however per the Web Soil Survey from the USDA, the site consists of B-Class Hydrologic soils. Approximate water table depths and soil conductivity have been provided from these results.

A total of 40,000 SF of pavers are proposed at this time, but this number may differ once the construction documents are started, and the design is finalized. Preliminary designs have provided 24" of stone storage under the pavers, exceeding the minimum calculated water quality depth of 3.44 inches per the NCDEQ Design Manual MDC 5. The storage area for these preliminary calculations is also assumed to be flat even though the site has slopes ranging from 1.5% to 5%. Baffles will be provided in final designs to account for this variation and provide adequate storage per MDC 4.

Option 2 for Storm Water Detention/Water Quality
Option 2 would be to provide an underground pipe detention system. The pipes would need to be approximately 48" in to 60" as cover allows. An above ground sand filter and small retaining wall would be provided at the north side of the site for water quality and a small amount of stormwater detention. If needed, open space areas of the courtyard could serve as additional water quality areas.

HensonFoley
Landscape Architecture | Civil Engineering
121 Gilead, Huntersville, NC 28078
p: 704.875.1615 | f: 704.875.0959 | www.hensonfoley.com
NC ENGINEERING BOARD LICENSE #: C-3981
NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399

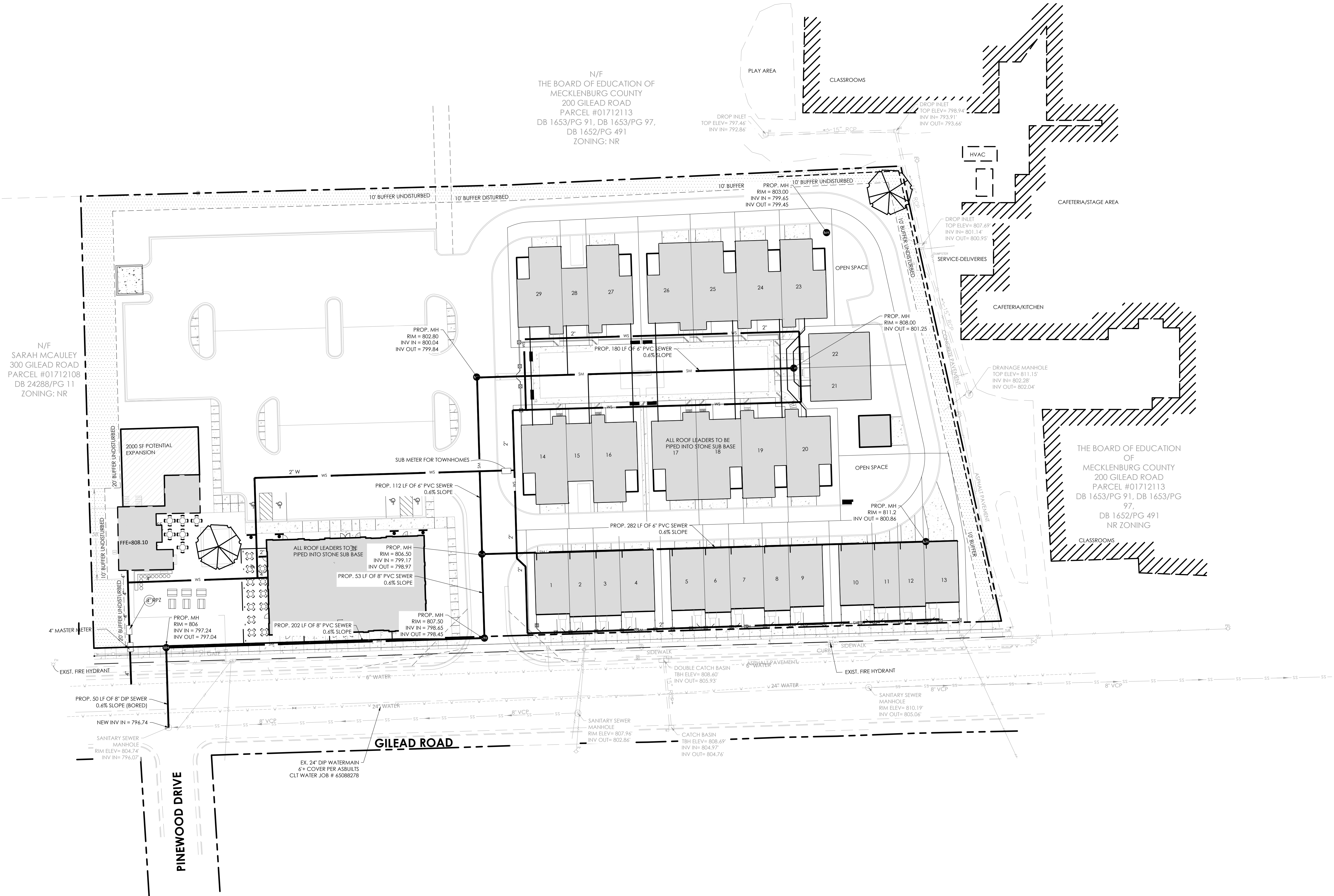
0 15 30 45
NORTH ARROW
GRAPHIC SCALE 1"=30 FT.

GILEAD ROAD MIXED USE
PARCEL ID#S 01712109, 01712110, 01712111, 01712112
202.204.206.208 GILEAD ROAD HUNTERSVILLE, NC

GRADING PLAN

REVISIONS:

C06 - GRADING.DWG
PROJECT NUMBER: 221015
DATE: 11/22/2021 DRAWN BY: JDC
C05 **09**
SHEET OF



GILEAD ROAD MIXED USE
PARCEL ID#S 01712109, 01712110, 01712111, 01712112
202.204.206.208 GILEAD ROAD HUNTERVILLE, NC

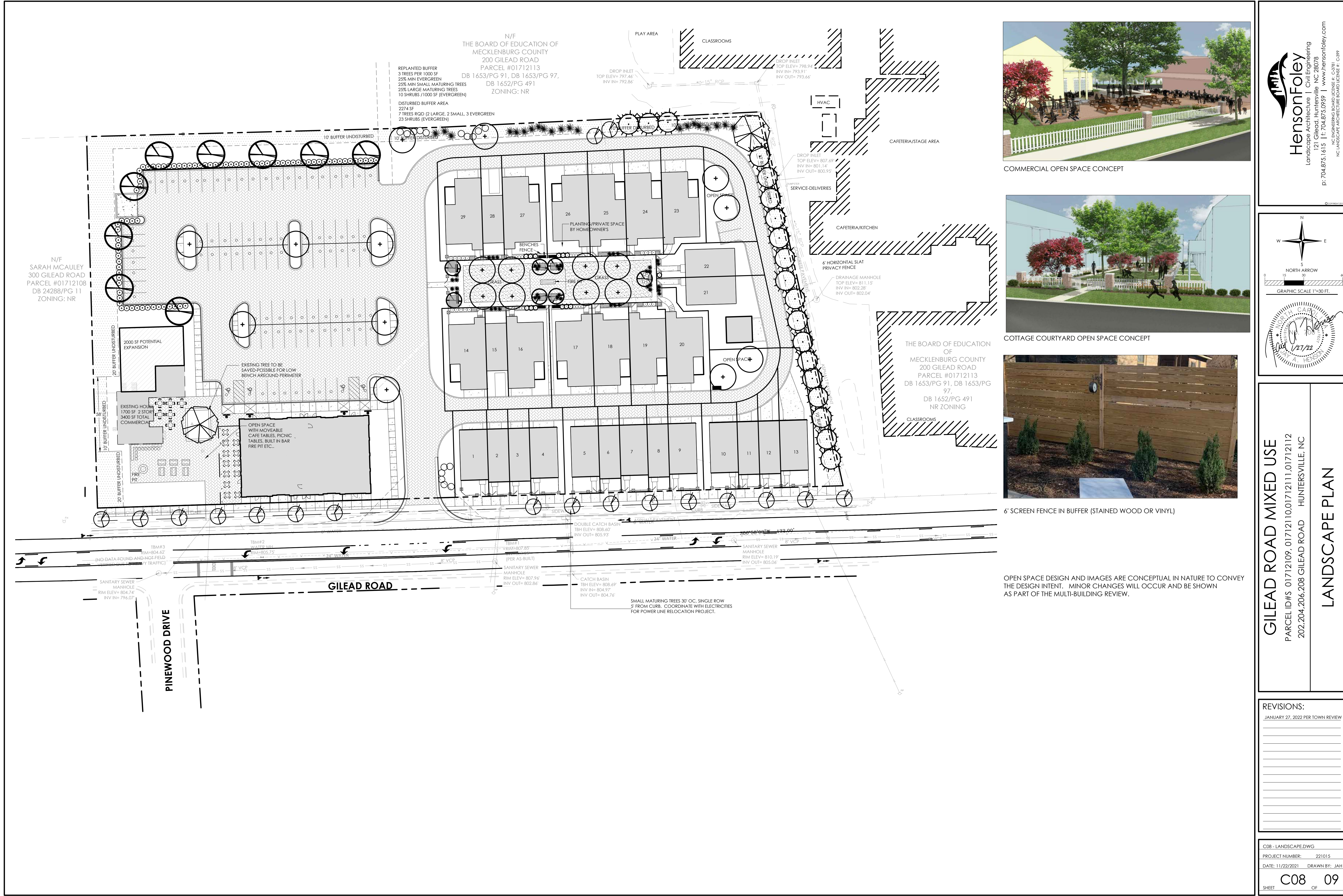
UTILITY PLAN

REVISIONS:
JANUARY 27, 2022 PER TOWN REVIEW

C07 - UTILITY.DWG
PROJECT NUMBER: 221015
DATE: 11/22/2021 DRAWN BY: JAH
C06 09
SHEET OF

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p: 704.875.1615 | f: 704.875.0959 | www.hensonfoley.com
NC ENGINEERING BOARD LICENSE #: C-3981
NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399

N
W E
S
NORTH ARROW
0 15 30 45
GRAPHIC SCALE 1"=30 FT.
NORTH CAROLINA
REGISTERED PROFESSIONAL ENGINEER
23557
11/22/21
TIMOTHY D. FOLEY



COMMERCIAL OPEN SPACE CONCEPT



COTTAGE COURTYARD OPEN SPACE CONCEPT

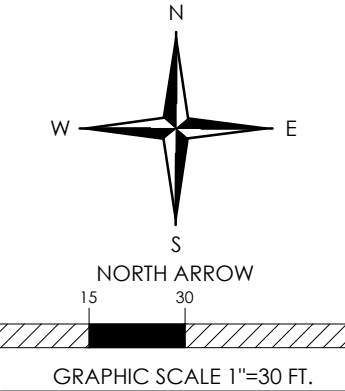


6' SCREEN FENCE IN BUFFER (STAINED WOOD OR VINYL)

OPEN SPACE DESIGN AND IMAGES ARE CONCEPTUAL IN NATURE TO CONVEY THE DESIGN INTENT. MINOR CHANGES WILL OCCUR AND BE SHOWN AS PART OF THE MULTI-BUILDING REVIEW.



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NC ENGINEERING BOARD LICENSE #: C-3981
NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399



0 15 30 45 60
GRAPHIC SCALE 1"=30 FT.

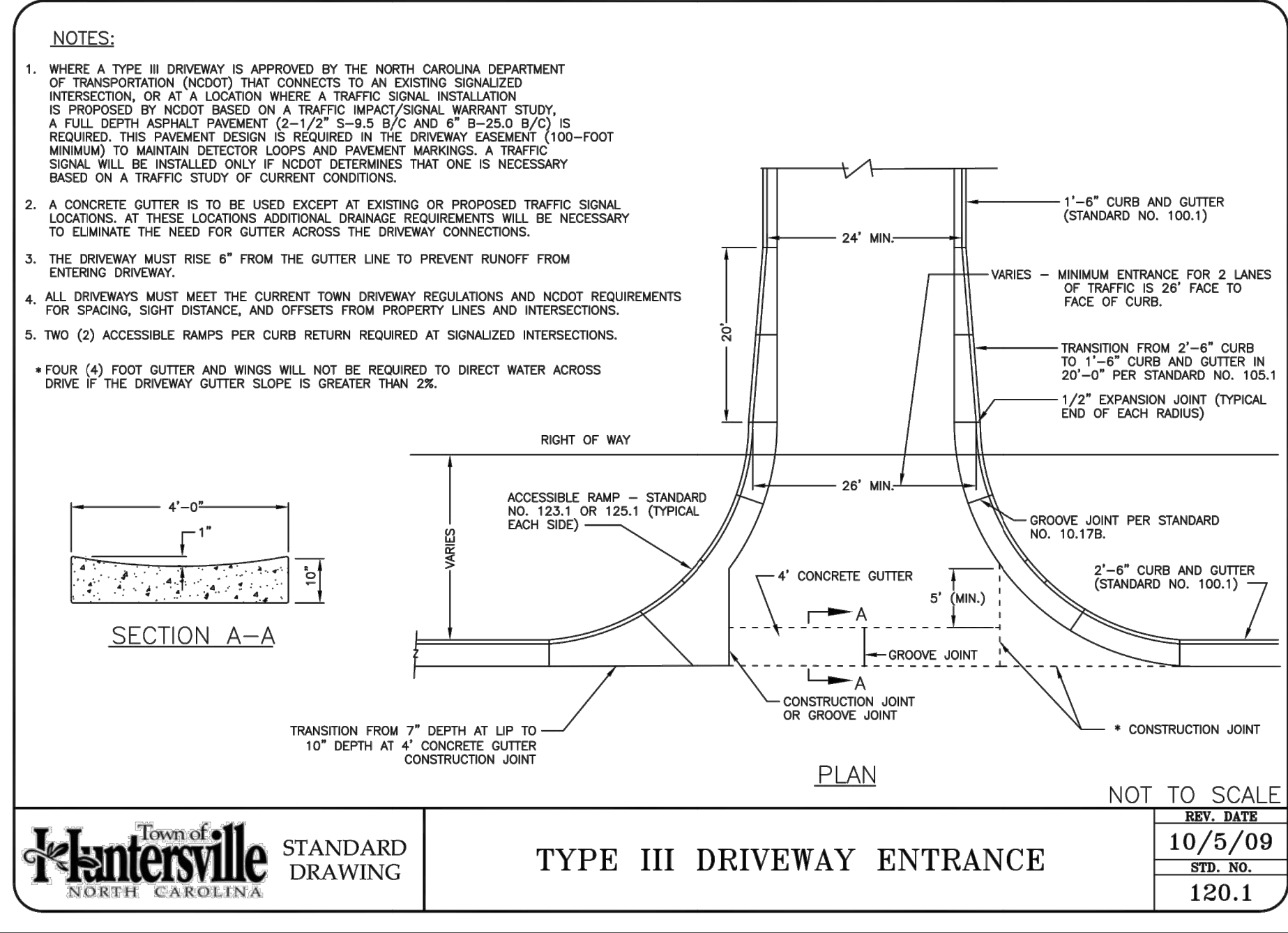
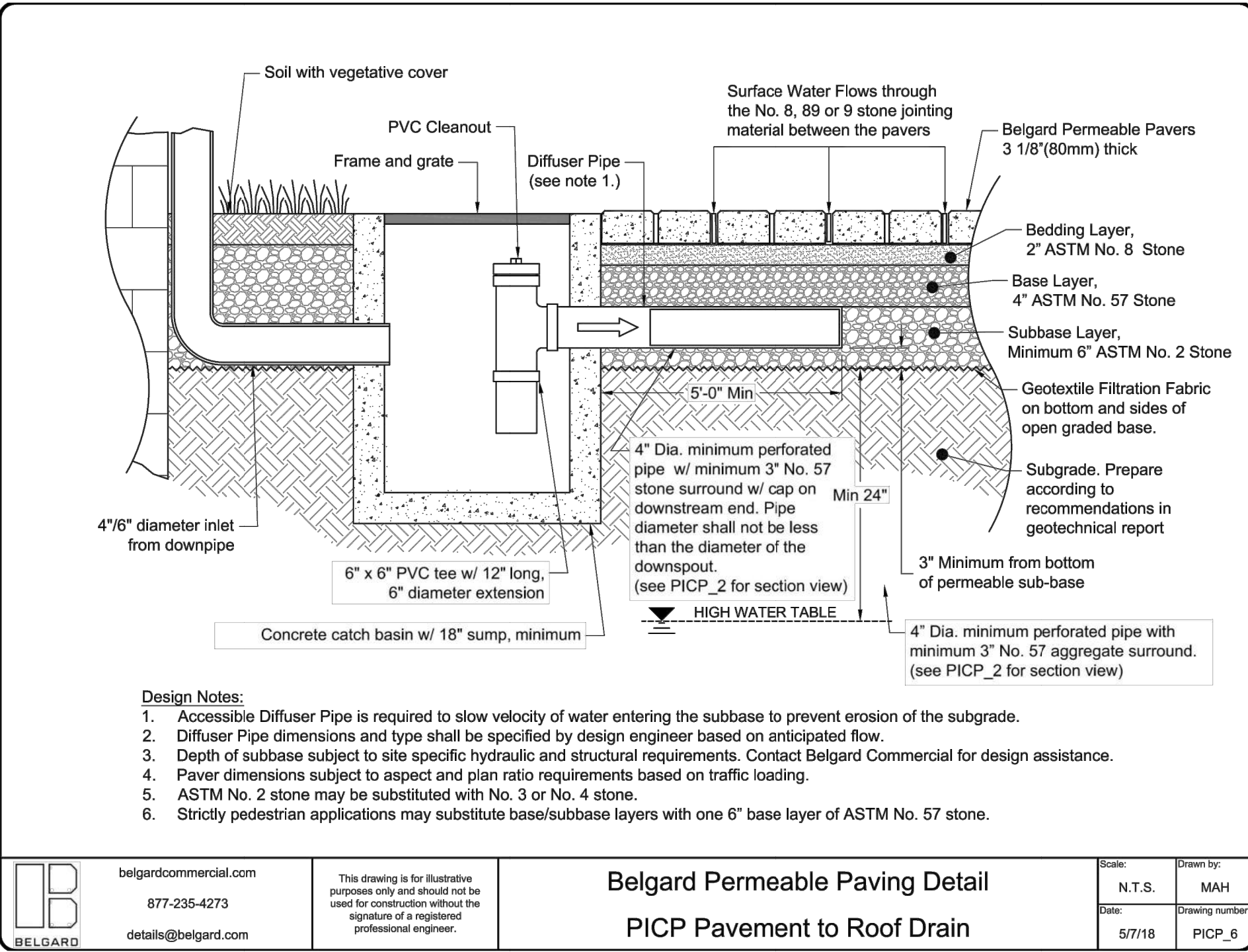
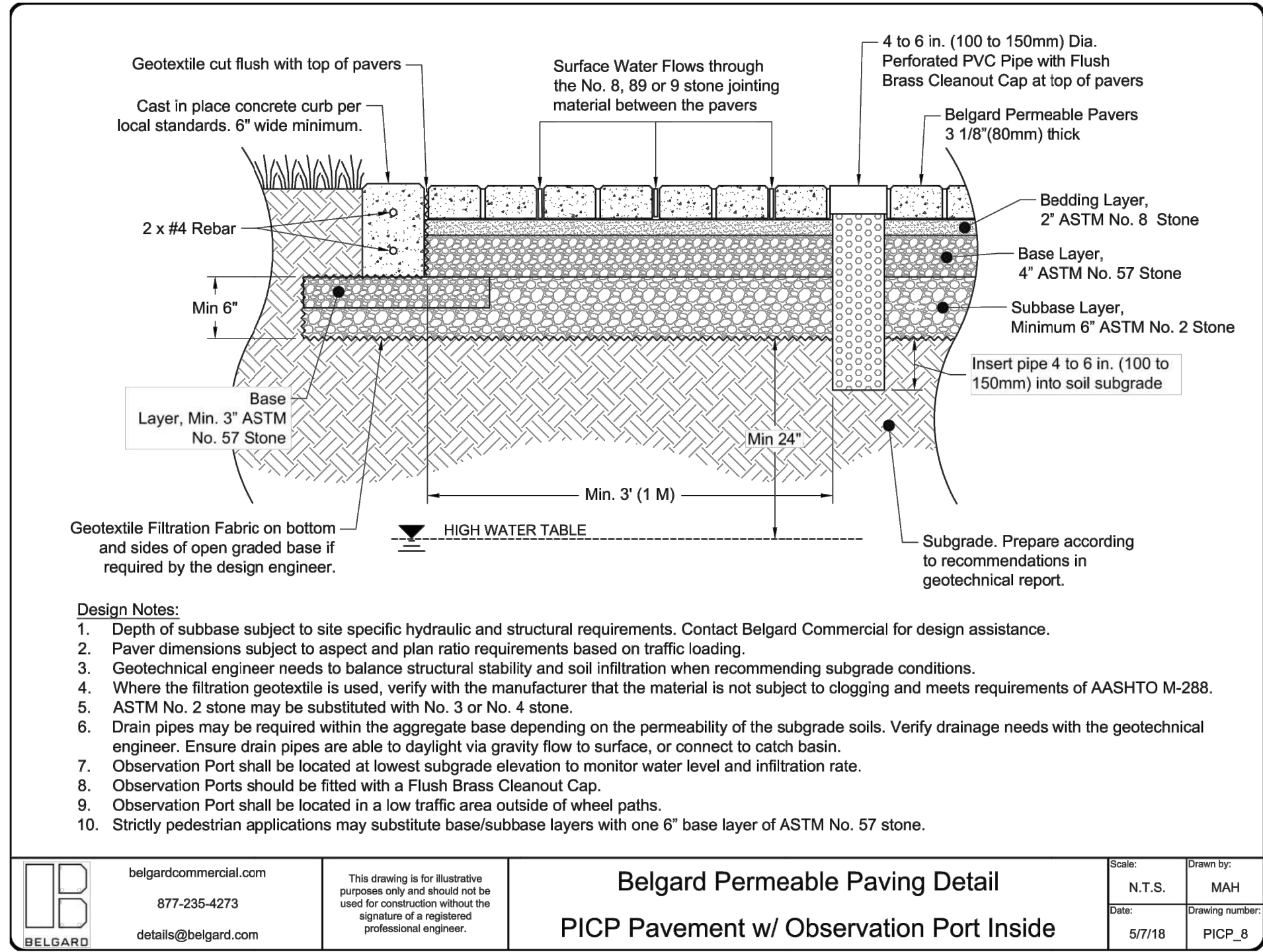
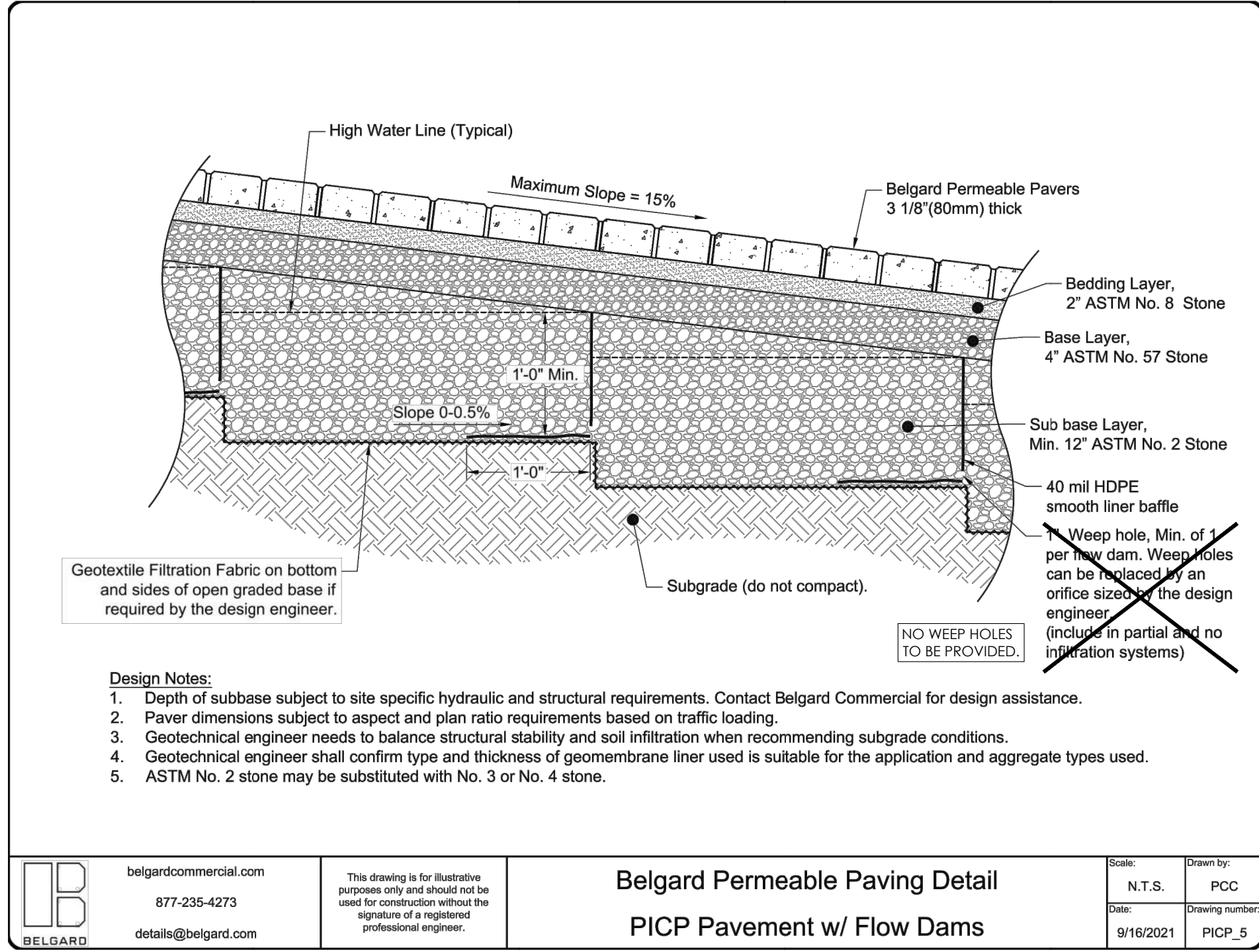
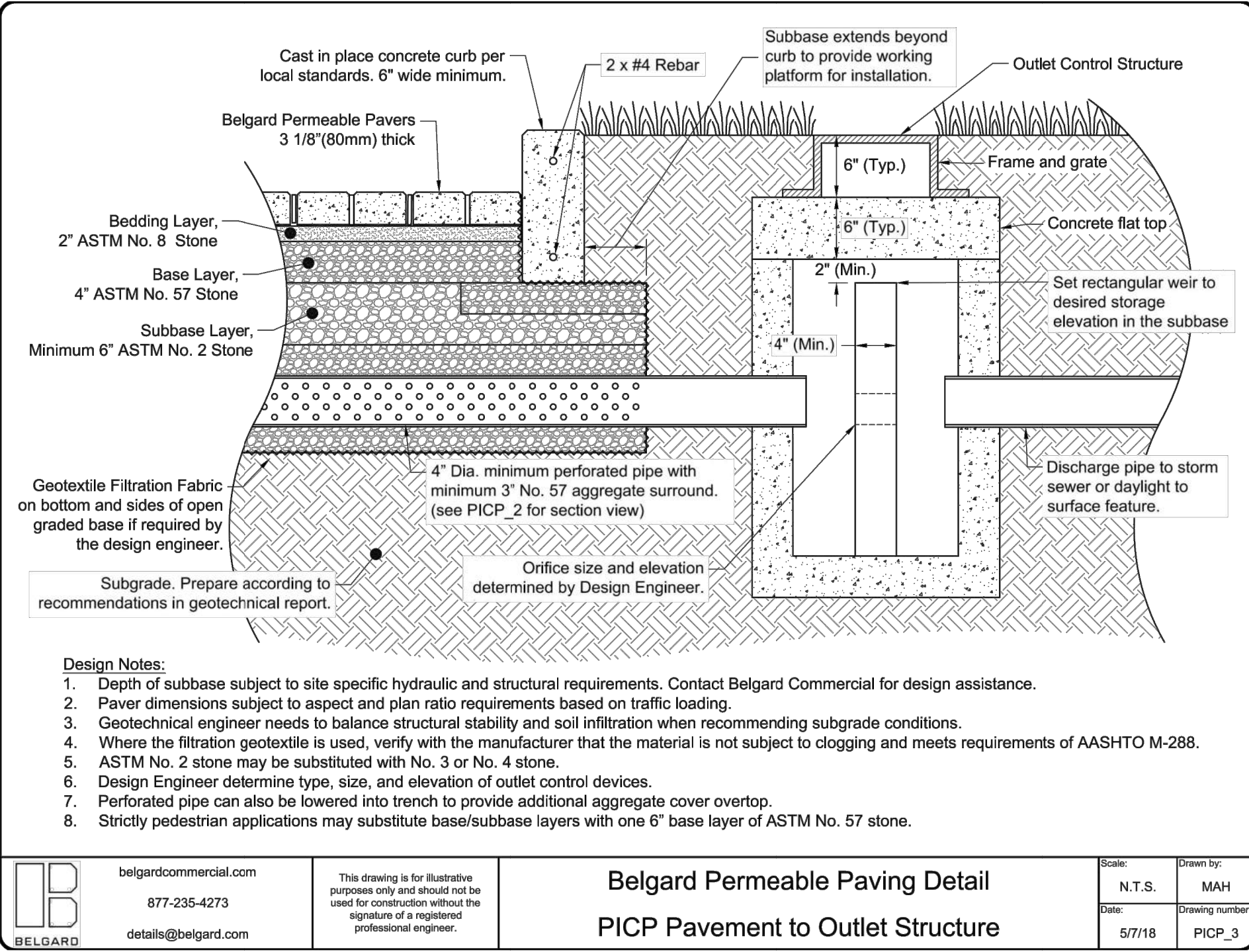
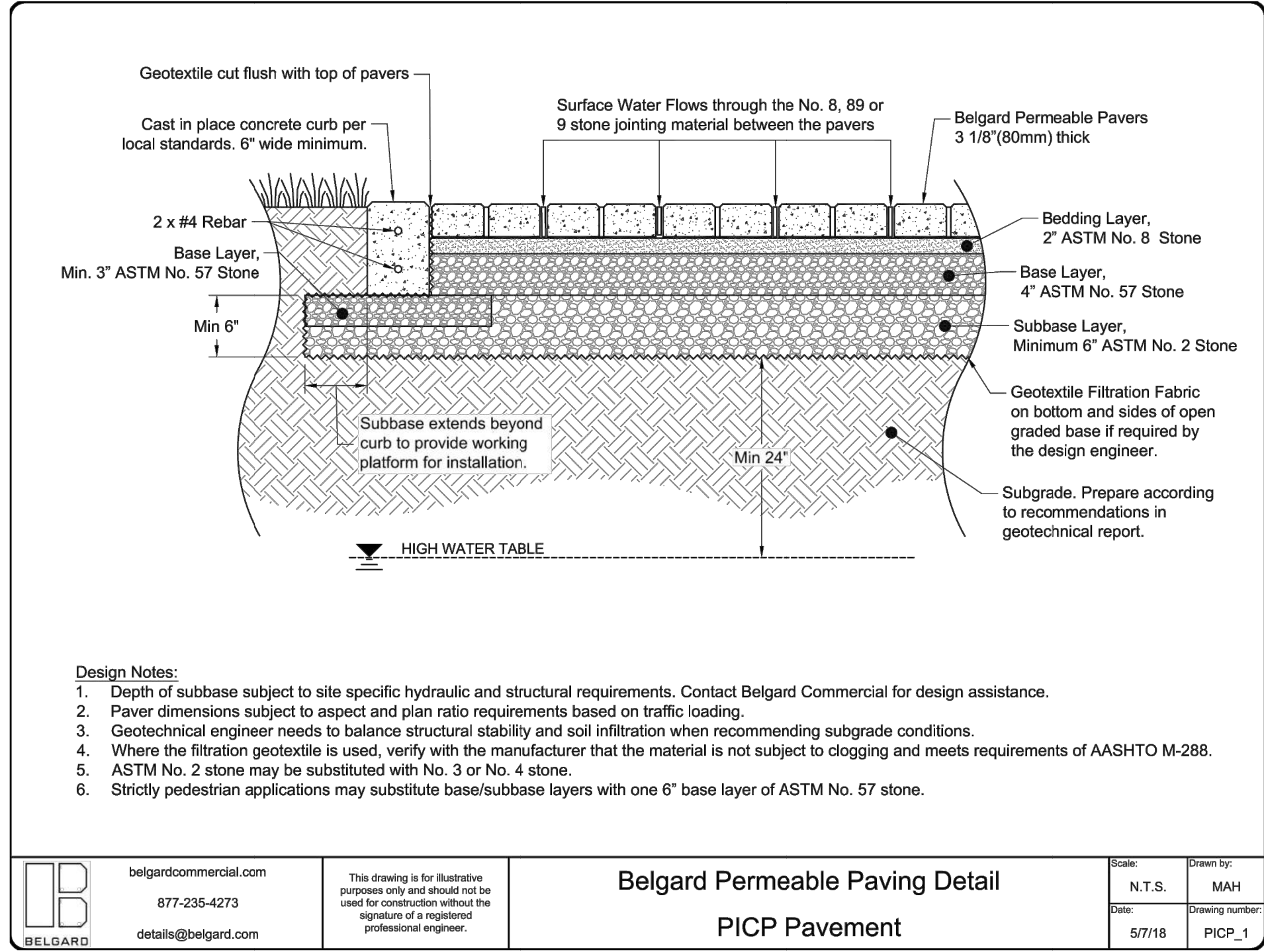


GILEAD ROAD MIXED USE
PARCEL ID#S 01712109, 01712110, 01712111, 01712112
202.204.206.208 GILEAD ROAD HUNTERSVILLE, NC

LANDSCAPE PLAN

REVISIONS:	
JANUARY 27, 2022 PER TOWN REVIEW	

C08 - LANDSCAPE.DWG	
PROJECT NUMBER:	221015
DATE: 11/22/2021	DRAWN BY: JAH
SHEET	C08 OF 09



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Landscape Architecture | Civil Engineering
121 Gilead, Huntersville, NC 28078
P: 704.875.1615 | F: 704.875.0959 | www.hensonfoley.com
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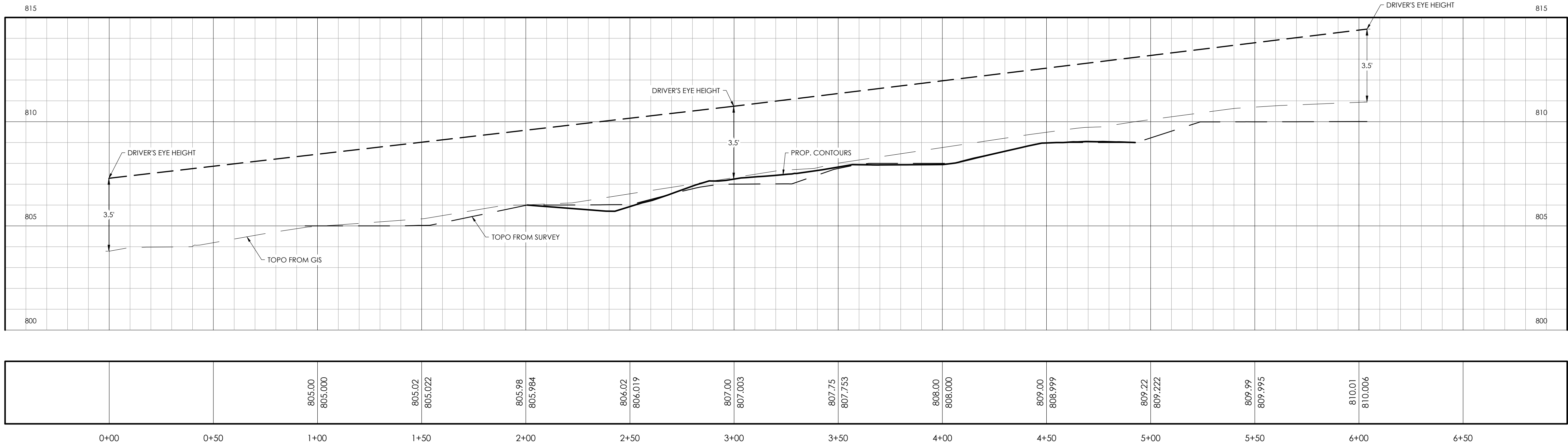
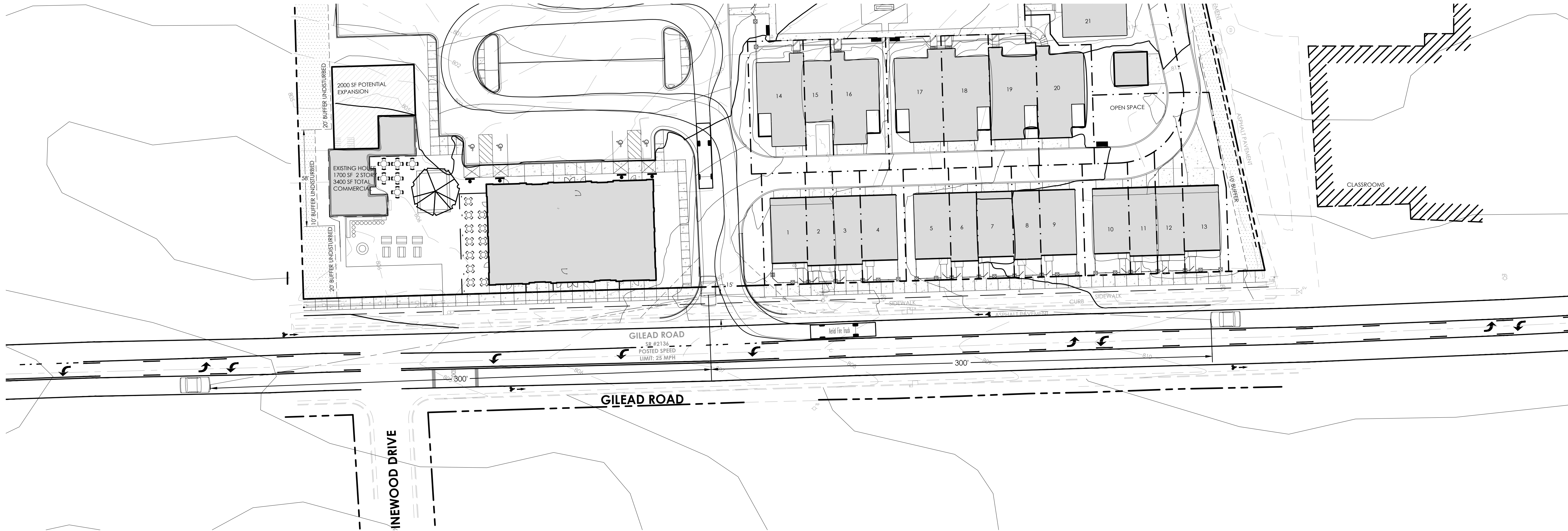


GILEAD ROAD MIXED USE
PARCEL ID# S 01712109, 01712110, 01712111, 01712112
202,204,206,208 GILEAD ROAD HUNTERSVILLE, NC

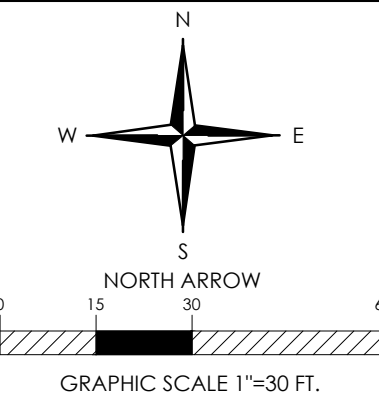
DETAILS

REVISIONS:

1	JANUARY 27, 2022 PER TOWN REVIEW



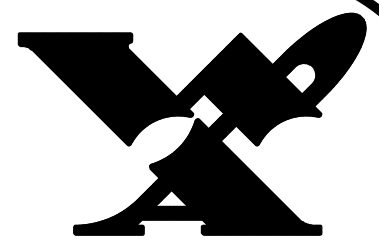
SIGHT DISTANCE PROFILE
H: 1" = 30'
V: 1" = 3'



GILEAD ROAD MIXED USE
PARCEL ID#S 01712109, 01712110, 01712111, 01712112
202.204.206.208 GILEAD ROAD HUNTERSVILLE, NC
SIGHT DISTANCE PROFILE

REVISIONS:

DATE: 11/22/2021	DRAWN BY: JDC



Wilber Associates
Architecture / Planning
P.O. Box 428 - 20044 N. Zion St.
Carrabius, N.C. 28031
704-892-3633

NOTE
This drawing is property of
the firm, Wilber Associates.
Reproduction or reuse in
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written permission is
forbidden.

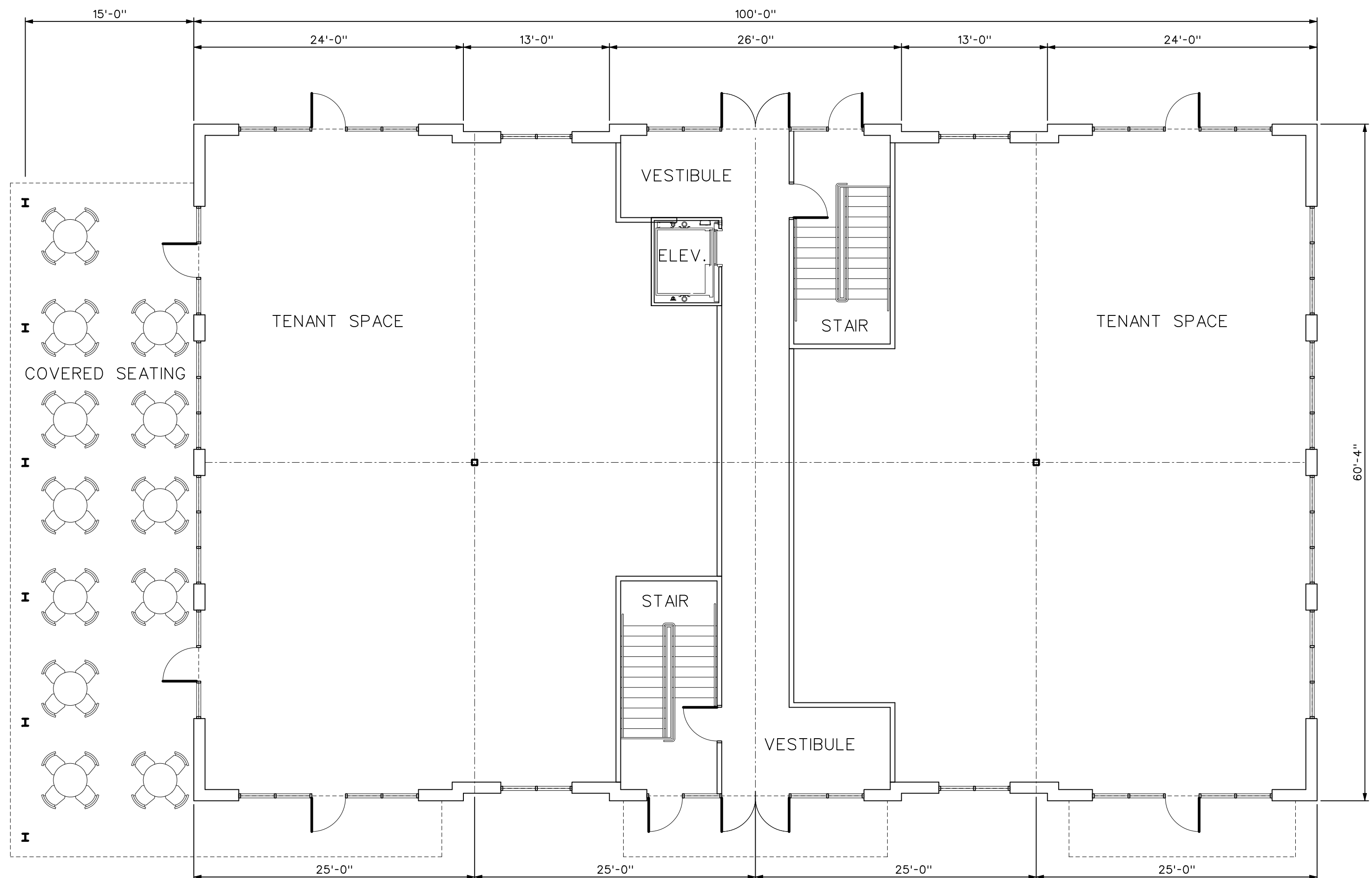
SEAL

TITLE

PROPOSED NEW BUILDING FOR
GILEAD RD. MIXED USE
GILEAD RD., HUNTERVILLE NC

COMM. NO. 21-49
DATE 1/25/22
REVISIONS

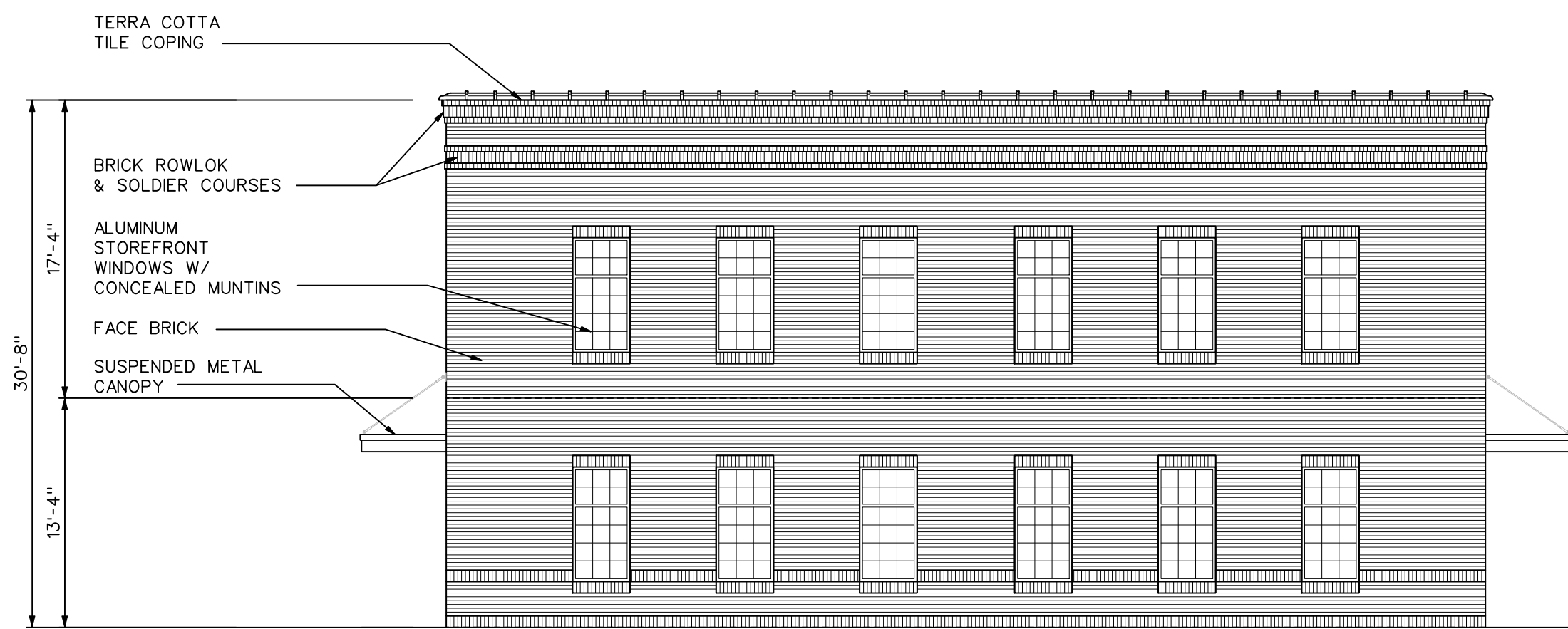
SHEET
SKA-1
OF
1



FIRST FLOOR PLAN
1/8"=1'-0"



FRONT ELEVATION (REAR SIMILAR)
1/8"=1'-0"



SIDE / PATIO ELEVATION
1/8"=1'-0"



SIDE / PATIO ELEVATION
1/8"=1'-0"



BLDG. 1



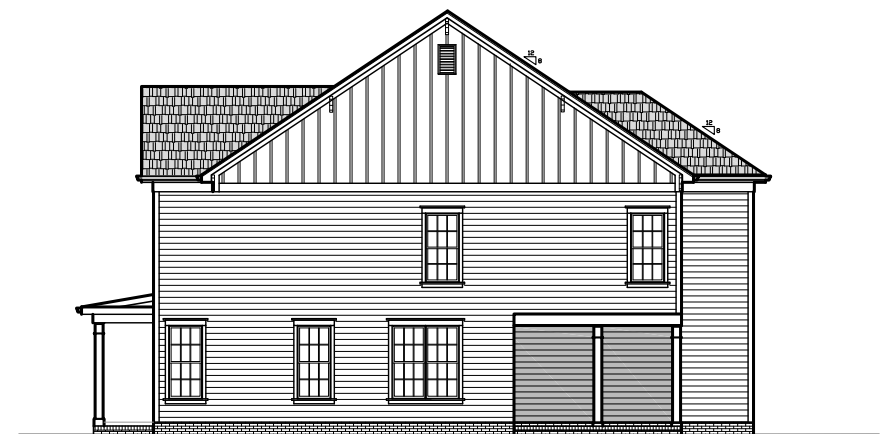
BLDG. 2



BLDG. 3



MODEL
GILEAD
VERSION JAN. 13, 2022
DRAWN BY AJL
SHEET NO.
2.0
THESE PLANS ARE THE SOLE PROPERTY OF MEETING STREET COMPANIES AND ARE PROTECTED UNDER THE FEDERAL COPYRIGHT LAWS.



1930 Abbott Street
Suite 400
Charlotte, North Carolina
28203
Office 704-714-3080
Fax 704-714-3071

MODEL

GILEAD

VERSION
JAN. 20, 2022

DRAWN BY
AJL

COTTAGE
GREEN

SHEET NO.

2.0

THESE PLANS ARE THE SOLE
PROPERTY OF MEETING STREET
COMPANIES AND ARE PROTECTED
UNDER THE FEDERAL COPYRIGHT
LAWS.

DEC 14, 2021

SIGN IN

GILEAD RD
MIXED USE

NAME

Charles Guignard

Gatewood Campbell

Amber Kovacs

Brian Richards

Dan Boove

Frank Gannon

Janelle Morris

Ray C. Casey

Taylor Hutto

Lee Hallman

Amy Hallman

Melinda Bates

Jaison Lewis

Brian Hines

Tim Foley

JAY HENSON

The Community Meeting was held at our office on Tuesday December 14, 2021 to discuss the above reference project. A brief presentation of site location, site plan, images of design ideas, 2040 plan, and adjacent land uses were presented. Below is an overview of the questions/comments:

1. How will this project impact the greenway that is immediately adjacent to Sherwood Forest? **This project shows a spur trail to the new greenway and will require a future r/w from the County and CMS. The Sherwood Forest neighborhood is approximately 900' away from this site.**
2. Will the units be for sale or rent? **The units are SF homes, for sale.**
3. How will you address traffic? **A TIA was submitted for scoping and are awaiting on the scoping plan to be approved.**
4. What are the buffers? 20' to the west and north. **10' to the east and a portion of the north as illustrated.**
5. What is the density? **There are 29 townhomes-the project acreage is 3.9 -roughly 7.4 DUA**
6. Why TND? To allow for 100% attached single family townhomes. **The rezoning to TND was not to increase density as it is possible to add more units (apartments) and commercial space if a by right plan were proposed. Both commercial and single family uses are allowed in the existing zoning and proposed zoning.**
7. How will stormwater be handled and where will it discharge? **The current plan is to use pervious pavers with a stone sub base. This will eliminate a pond and will allow groundwater recharge/infiltration into the soil. Preliminary infiltration tests were conducted and are favorable, however additional tests will be performed to insure the infiltration rates are acceptable. The low point is to the north adjacent to the CMS property-at the existing drainage swale.**
8. What are the uses for commercial? **The uses are unknown however the intent is to utilize the existing house as a taproom/restaurant/coffee shop. The new commercial building could be the same on the first floor with some retail. 2nd floor would most likely be office.**

9. How will trash be handled? **Dumpster location will be provide for the commercial site and roll out service will be provided on townhome site.**
10. How will mail be delivered to townhomes? **A central kiosk will be provided.**
11. Is the tree within the open space being saved? **The tree shown in the open space is being saved and integrated into the plan.**
12. Is there a project name? **There is not. We are open to ideas and suggestions. There are several connections with the Blythe family but no name as of yet.**



HensonFoley Design, Inc.

Date: December 14, 2021

Town of Huntersville: Gilead Road Mix Use

IMPACT OF THE PROPOSED DEVELOPMENT

Proposed Housing Units: 29 single family attached units under TND (CD) zoning.

CMS Planning Area: North

Average Student Yield per Unit: 0.1812

This development may add 5 students to the schools in this area.

The following data is as of 20th Day of the 2020-21 school year.

<i>Schools Affected</i>	<i>Total Classroom Teachers</i>	<i>Building Classrooms/ Teacher Stations</i>	<i>20th Day, Enrollment (non-ec)</i>	<i>Building Classroom/ Adjusted Capacity (Without Mobiles)</i>	<i>20th Day, Building Utilization (Without Mobiles)</i>	<i>Additional Students As a result of this development</i>	<i>Utilization As of result of this development (Without Mobiles)</i>
HUNTERSVILLE ELEMENTARY	47.00	37	734	578	127%	3	127%
BAILEY MIDDLE	76.65	57	1454	1081	134%	1	134%
HOUGH HIGH	118.5	100	2485	2097	119%	1	119%

The total estimated capital cost of providing the additional school capacity for this new development is \$183,000; calculated as follows:

Elementary School: **3**x \$34,000 = \$102,000

Middle School: **1**x \$37,000 = \$37,000

High School: **1**x \$44,000 = \$44,000

RECOMMENDATION

Adequacy of existing school capacity is a significant problem. We are particularly concerned about a case where school utilization exceeds 100% since the proposed development may exacerbate the situation. Approval of this petition may increase overcrowding and/or reliance upon mobile classrooms at the schools listed above.



November 1st, 2021

Mrs. Tess Fallova
HensonFoley
121 Gilead Road
Huntersville, NC 28078

**SUBJECT: WILLINGNESS TO SERVE
GILEAD ROAD MIXED USE
202 – 208 GILEAD ROAD, HUNTERSVILLE, NC 28078**

After an analysis by Charlotte Water's Capacity Assurance Program (CAP) of the sanitary sewer system associated with the proposed **GILEAD ROAD MIXED USE** development, it was determined that there is currently sufficient capacity to accommodate the proposed sewer flow (**12,320 gallons per day**), at the connection point(s) indicated on the submitted exhibit plan for transmission to the **McDowell Creek Waste Water Treatment Plant**; (NPDES permit number **NC0036277**),

Please note that the availability of flow is subject to change and that this **Willingness to Serve (WTS) review does not guarantee future capacity or reserve capacity in the public sewer system. A full CAP application with fully engineered site utility plan must be submitted and approved to reserve sewer capacity for this project.** Please contact new Services at 704-432-2854 for official submittal guidelines to the Capacity Assurance Program.

CLTWater agrees to furnish water to the subject project. The water quality to the subject project is regulated by the State Drinking Water Act Amendments of 1986 and, The Water Supply Management Plan, PWS ID # **0160010**, on file with the Public Water Supply Section of NC DEQ. However, CLTWater cannot guarantee a constant pressure or quality of flow.

The applicant should understand that due to the involvement of other agencies and continuing growth of the water and sewer system, the ability to provide service for future projects cannot be guaranteed nor reserved. Connection to the CLTWater and sewer system is accepted on a first come, first served basis.

The applicant should understand that this letter is not an authorization to construct or extend private water or sewer systems, as the appropriate local or State permits are required prior to construction. The analysis performed determines available capacity within the existing public gravity sewer system. The development is responsible for any additional private or public sewer infrastructure required to convey flow from the proposed development to the existing public sewer. If you have any questions, please do not hesitate to contact me at (704) 432-5801.

Sincerely,

Guillermo Anzola

Guillermo Anzola / Engineering Assistant
CHARLOTTE WATER / charlottewater.org

**Town of Huntersville
Town Board
March 7, 2022**

To: Town Board

From: Jack Simoneau

Date: March 7, 2022

Subject: TA22-02 Zoning Ordinance text amendment removing the ability to exceed 30 percent attached houses.

EXPLAIN REQUEST:

TA 22-02 is a Zoning Ordinance text amendment sponsored by the Huntersville Town Board affecting the Neighborhood Residential, Neighborhood Commercial, Town Center and Highway Commercial zoning districts by removing the ability to exceed 30% attached houses (row house, townhouse or duplex), apartment buildings and mixed-use buildings (commercial & residential in one multi-story building) in major subdivisions located within ¼ mile of designated rail transit stations.

ACTION RECOMMENDED:

Conduct Public Hearing

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA22-02 Staff Report
2. TA 22-02 Amendment Application
3. TA 22-02

TA 22-02 – Town of Huntersville: Housing Near Transit Stations

PART 1: DESCRIPTION

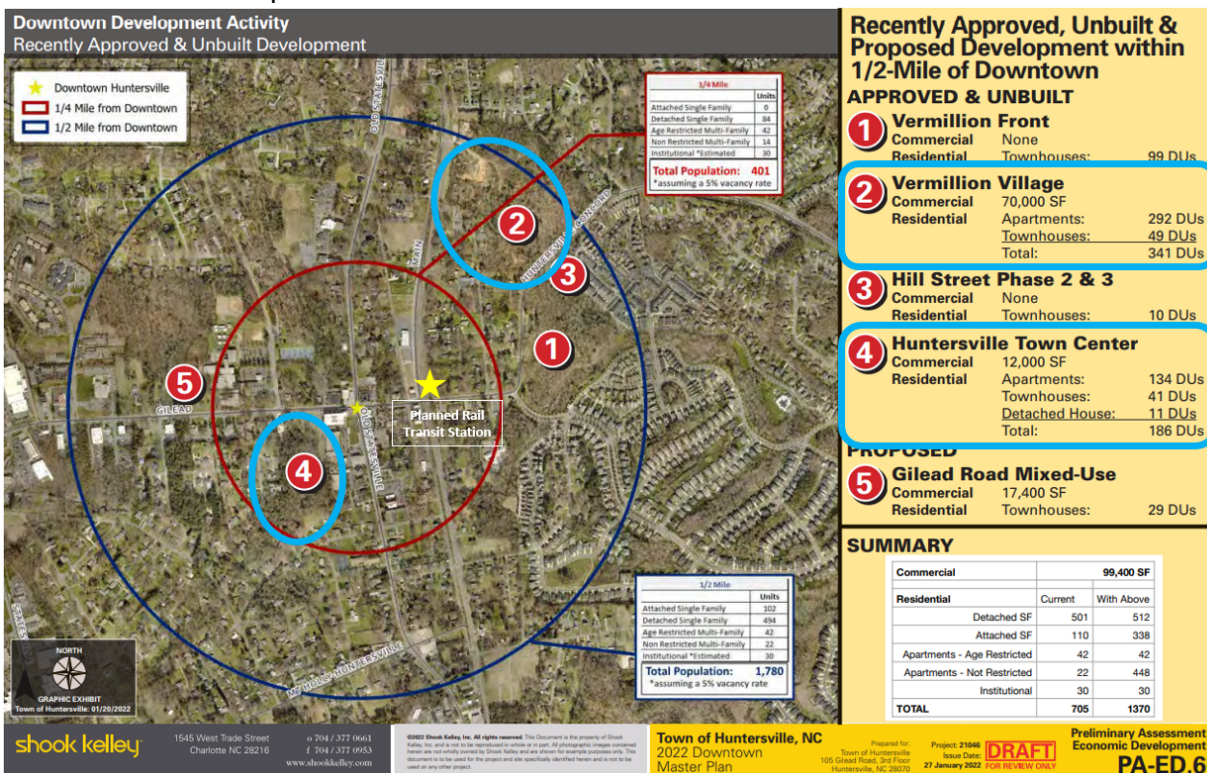
TA 22-02 is a Zoning Ordinance text amendment sponsored by the Huntersville Town Board affecting the Neighborhood Residential, Neighborhood Commercial, Town Center and Highway Commercial zoning districts by removing the ability to exceed 30% attached houses (row house, townhouse or duplex), apartment buildings and mixed-use buildings (commercial & residential in one multi-story building) in major subdivisions located within ¼ mile of designated rail transit stations.

PART 2: BACKGROUND

In the Neighborhood Residential, Neighborhood Commercial, Town Center and Highway Commercial zoning districts, major subdivisions are limited to 30% attached houses, apartment buildings and mixed-use buildings. However, there is also a provision where the 30% cap can be exceeded in major subdivisions within ¼ mile of designated rail transit stations. These provisions have been in the ordinance since 1996.

The first development to be approved under these provisions was Vermillion Village in 2017 (#2 below) followed by Huntersville Town Center/North State Development in 2021 (# 4 below). Both properties are zoned Town Center-CD. *Please note the map below is from the first public forum for the downtown plan currently underway. The red and dark blue circles represent ¼ mile and ½ mile from the center of downtown (intersection of Gilead Road and NC 115), not the planned rail station. Further, developments 1 and 3 were approved as part of Vermillion rezoning in 1999. Development 5 is a proposed TND-CD rezoning currently going through the process*

Since rail transit may not come or if it does, will be far into the future, the Town Board requested text amendment TA 22-02 be processed for consideration.



PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

Policy LU-2: Encourage residential development that follows the pattern outlined in the future land use map.

LU 2.1: Higher intensity residential uses will be focused generally within two miles of the I-77/ NC-115 corridor and future activity centers in the eastern and western areas of Huntersville’s zoning jurisdiction.

COMMENT: If TA 22-02 is approved, there will still be an ability for higher intensity residential uses within 2 miles of I-77/NC 115 with one building on one lot or through rezoning.

Policy LU-5: Focus more intense development in locations that can support growth.

LU 5.1: Allow more intense development only where transportation infrastructure and utilities already exist.

COMMENT: Since rail transit will not occur anytime in the foreseeable future, removing the ability to exceed the 30% cap on attached housing, apartment buildings and mixed-use buildings within ¼ mile of designated rail transit stations will allow the Town to better allocate density with the availability of transportation options.

Policy LU-10: Encourage a diversity of housing options.

LU 10.1: Align housing options with resident needs and promote attainable housing options.

COMMENT: While TA 22-02 could have some impact on housing varieties, other options exist to allow a variety of housing choices.

Policy LU-11: Protect Existing Housing Stock.

LU 11.1: Protect and enhance the unique character of Huntersville’s neighborhoods by using planning tools to safeguard from potentially negative impacts of development and redevelopment.

COMMENT: If TA 22-02 is approved, allowing more than 30% attached houses, apartment buildings and mixed-use buildings could occur through a rezoning providing a higher-level review by the Town than would occur with a by-right land use.

Policy DT-1: Encourage future development in the Downtown area to adhere to the Regulating Plan. (see page 73)

DT 1.1: Encourage vertical mixed-use development with active visual engagement between the street and the ground and upper floors along Active Frontages

- Shopfronts are encouraged along key frontages.
- Active uses are required on the ground floor (in new development only) and include retail, restaurants, and other uses that generate many visits over an extended period of the day.
- Upper story residential units should have balconies when feasible.
- Active frontages should use design features such as a high level of building transparency, frequent pedestrian access points, and facade articulation.

DT 1.2: In Tier 1 areas, encourage multistory buildings and allow for a mix of uses, including commercial, office, and residential.

- Building types allowed include urban workplaces, multifamily, attached, and detached residential.

DT 1.3: In Tier 2 areas, create a transitional area from the core of Downtown to surrounding residential neighborhoods.

- This area contains mostly residential uses with some office and commercial space at lower intensities than Tier 1.

COMMENT: While TA 22-02 could have some impact on limiting mixed-uses, other options exist to allow mixed-uses.

Policy DT-2: Step down in intensity and density near established residential neighborhoods.

- Housing types that provide good transitions include townhomes, duplexes, triplexes, and other small-scale products.
- Design features such as setbacks, step backs, tree preservation, and open space placement can help provide transitions.

COMMENT If TA 22-02 is approved, allowing more than 30% attached houses, apartment buildings and mixed-use buildings could occur through a rezoning providing a higher-level review by the Town than would occur with a by-right land use.

Policy DT-11: Promote Residential Development in Downtown Huntersville.

DT 11.1: Allow and encourage residential development in Downtown Huntersville, including for-sale and rental housing integrated with commercial uses.

DT 11.2: Work with developers to ensure a mix of housing typologies and price points in future developments.

COMMENT: Approval of TA 22-02 could limit residential development in Downtown Huntersville but will not stop it.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of TA 22-02 (see Part 9).

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) will consider the request on March 3, 2022.

PART 6: PUBLIC HEARING

March 7, 2022

PART 7: PLANNING BOARD RECOMMENDATION

March 22, 2022

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Text Amendment Language

PART 9: STATEMENT OF CONSISTENCY – TA20-01

<i>Planning Department</i>	<i>Planning Board</i>	<i>Board of Commissioners</i>
APPROVAL: In considering the proposed amendment TA22-02, Planning Staff recommends approval based on consistency with LU 2, 5, 10, 11 and DT 1, 2 and 11 of the Huntersville 2040 Community Plan. <i>It is reasonable and in the public interest to amend the Zoning Ordinance because a variety of residential building types are still allowed by the ordinance.</i>	APPROVAL: In considering the proposed amendment TA22-02, Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> <i>It is reasonable and in the public interest to amend the Zoning Ordinance because... (Explain)</i>	APPROVAL: In considering the proposed amendment TA22-02, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> <i>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</i>
DENIAL: N/A	DENIAL: N/A In considering the proposed amendment TA22-02, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. <i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i>	DENIAL: In considering the proposed amendment TA22-02, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. <i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i>



Text Amendment Application

Date of Application 1-31-22

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 3 Section(s): See attached

See attached

Current Ordinance

See Attached

Proposed Text

**Reason for Proposed
Change**

To remove the ability to exceed 30% attached houses, apartment buildings and mixed use buildings in major residential subdivisions at designated transit stations because rail transit will not occur anytime in the foreseeable future

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Huntersville Town Board

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: _____

Signature Jackie Huffman Date 1-31-2022

Title Assistant Town Manager Email jhuffman@huntersville.org

Address of Applicant PO Box 664, Huntersville NC 28070

Property Owner (if different than applicant)

* Printed Name N/A

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date 1-31-22

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: 1-31-2022

Staff Initials: JS

AN ORDINANCE AMENDING ARTICLE 3.2.4(d)(4), 3.2.5(d)(4), 3.2.6(d)(4) AND 3.2.7(d)(4)(a) OF THE ZONING ORDINANCE REMOVING THE ABILITY TO EXCEED 30% ATTACHED HOUSES, APARTMENT BUILDINGS AND MIXED USE BUILDINGS IN MAJOR SUBDIVISIONS WITHIN ¼ MILE OF DESIGNATED RAIL TRANSIT STATIONS

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 3.2.4(d)(4) and 3.2.6(d)(4) of the Zoning Ordinance be deleted as follows and the remaining sections be renumbered:

- 4) Notwithstanding the limitations of 3), above, in any section of a major subdivision located within ¼ mile of a designated rail transit station, the percentage of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings is not limited. Higher overall density is encouraged within ¼ mile of rail transit stations. Rail transit stations are those locations designated by resolution adopted by the Board of Commissioners of the Town of Huntersville.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 3.2.5(d)(4) of the Zoning Ordinance is hereby amended as follows:

- 4) Notwithstanding the limitations of 3), above, in any section of a major subdivision located within ¼ mile of a designated rail transit station, the percentage of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings is not limited. Higher overall density is encouraged within ¼ mile of rail transit stations. Rail transit stations are those locations designated by resolution adopted by the Board of Commissioners of the Town of Huntersville. Further, the percentage of dwelling units contained in attached houses, apartment buildings and mixed-use buildings is not limited when the dwellings are part of a mixed-use (office and/or commercial, residential) project provided that no more than 45% of the habitable floor area within the planned development project is for residential use.

Section 3. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 3.2.7(d)(4)(a) of the Zoning Ordinance be deleted as follows and the remaining sections be renumbered:

- (4)(a) Notwithstanding the limitations of 3), above, in any section of a major subdivision located within ¼ mile of a designated rail transit station, the percentage of dwelling units contained in attached houses, apartment buildings, and mixed-use buildings is not limited. Higher overall density is encouraged within ¼ mile of rail transit stations. Rail transit stations are those locations designated by resolution adopted by the Board of Commissioners of the Town of Huntersville.

Section 4. That these amendments shall become effective upon approval by the Town Board of Commissioners.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: March 3, 2022

PUBLIC HEARING DATE: March 7, 2022

PLANNING BOARD MEETING: March 22, 2022

TOWN BOARD DECISION: April 18, 2022