

Mayor
Jill Swain

Mayor Pro-Tem
Melinda Bales

Commissioners
Ron Julian
Rob Kidwell
Sarah McAulay
Jeff Neely
Danny Phillips

Town Manager
Gregory H. Ferguson



Department Heads
Max Buchanan, Public Works
Bill Coxe, Transportation
Michael Jaycocks, Parks&Rec
Jack Simoneau, Planning
Cleveland Spruill, Police Chief
Janet Stoner, Finance

Assistant Town Manager
Gerry Vincent

Town Clerk
Janet Pierson

Town Attorney
Bob Blythe

AGENDA
Regular Town Board Meeting
August 17, 2015 - 6:30 PM
TOWN HALL (101 Huntersville-Concord Road)

I. Pre-meeting

- A. Closed Session - Property Acquisition. (5:45 p.m.)
- B. Torrence Lytle School Discussion. (6:00 p.m.)

II. Call to Order

III. Invocation - Moment of Silence

IV. Pledge of Allegiance

V. Mayor and Commissioner Reports-Staff Questions

- A. Mayor Jill Swain (MTC, Commerce Station Management Team)
- B. Commissioner Melinda Bales (LNTC)
- C. Commissioner Ron Julian (LNREDC Board, Planning Coordinating Committee)
- D. Commissioner Rob Kidwell (Olde Huntersville Historic Society)
- E. Commissioner Sarah McAulay (CRTPO, COG, NC 73 Council of Planning)
- F. Commissioner Jeff Neely (Lake Norman Chamber Board, Visit Lake Norman Board)
- G. Commissioner Danny Phillips (Arts and Science Council)

VI. Public Comments, Requests, or Presentations

VII. Agenda Changes

- A. Agenda changes if any.
- B. Adoption of Agenda.

VIII. Public Hearings

IX. Other Business

- A. Consider decision on Petition #CODE15-01, a request by the Town of Huntersville to amend the Code of Ordinances Chapter 151: Flood Damage Prevention, for consistency with Federal Emergency Management Agency (FEMA) regulations. (*Meredith Miller*)

- B. Authorize acquisition of right-of-way along Mt. Holly-Huntersville Road, north and south of Hambright Road necessary to facilitate the improvement project at Mt. Holly-Huntersville Road/Hambright Road intersection. (*Max Buchanan*)
- C. Authorize Town Manager to execute professional design services contract (Engineering Design) with STV, Inc. for the US 21/Gilead Road Project. (*Max Buchanan*)

X. Consent Agenda

- A. Approve minutes of the July 20, 2015 Town Board Pre-meeting. (*Janet Pierson*)
- B. Approve minutes of the July 20, 2015 Regular Town Board Meeting. (*Janet Pierson*)
- C. Approve minutes of the August 3, 2015 Town Board Pre-meeting. (*Janet Pierson*)
- D. Approve minutes of the August 3, 2015 Regular Town Board Meeting. (*Janet Pierson*)
- E. Approve budget amendment recognizing insurance revenue in the amount of \$420.12 and appropriate to the Police Department's insurance account. (*Janet Stoner/Chief Spruill*)
- F. Approve budget amendment recognizing revenue received from rental of athletic fields & civic buildings and appropriate to Parks & Recreation Maintenance of Building & Grounds in the amount of \$12,000. (*Janet Stoner/Michael Jaycocks*)
- G. Approve SL362 Property Tax Refund Report No. 41. (*Janet Stoner/Greg Ferguson*)
- H. Adopt resolution approving the 2015 Mecklenburg County Multi-jurisdictional Hazard Mitigation Plan. (*Bobby Williams*)
- I. Receive Tax Collector's Settlement for Fiscal Year 2015. (*Greg Ferguson*)
- J. Adopt Order of Collection for tax year 2015 (FY 2016). (*Greg Ferguson*)
- K. Call a public hearing for Monday, September 21, 2015 at 6:30 p.m. at the Huntersville Town Hall on petition #ANNEX15-03, a request by Gwendolyn J. Howard (working with LStar) to annex 15.582 acres into the Town of Huntersville. (*David Peete*)
- L. Call a public hearing for Monday, September 21, 2015 at 6:30 p.m. at Huntersville Town Hall on Petition # ANNEX15-04, a request by Skybrook LLC to annex 37.418 acres into the Town of Huntersville. (*David Peete*)

XI. Closing Comments

XII. Adjourn

To speak concerning an item on the Agenda, please print your name and address on the sign-up sheet on the table outside the Board Room prior to the meeting. If you wish to speak concerning an item that is added to the Agenda during the meeting, please raise your hand during that item. Each speaker will be limited to no more than 3 minutes. The Mayor, as the presiding officer may, at her discretion, shorten the time limit for speakers when an unusually large number of persons have signed up to speak.

**AS A COURTESY, PLEASE TURN CELL PHONES
OFF WHILE MEETING IS IN PROGRESS**

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Meredith Miller, Planner I
Subject: CODE 15-01, Update to Floodplain Ordinance

CODE15-01 is a request by the Town of Huntersville to amend the Code of Ordinances Chapter 151: Flood Damage Prevention, for consistency with Federal Emergency Management Agency (FEMA) regulations.

ACTION RECOMMENDED:

Request for final action on 8/17/15.

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

	Description	Type
☐	Staff Report	Staff Report
☐	Exhibit A: Ordinance for Adoption	Exhibit

CODE 15-01 Update to Floodplain Ordinance

PART 1: DESCRIPTION

Code of Ordinance amendment CODE 15-01 is a request by the Town of Huntersville to amend Code of Ordinance Chapter 151: Flood Damage Prevention making clerical adjustments for consistency with Federal Emergency Management Agency (FEMA) regulations.

The Town of Huntersville requests a Code of Ordinances amendment to change the existing floodplain regulations within Chapter 151: Flood Damage Prevention. The changes fall into one of the following categories:

- Updating definitions
- Updating FEMA Form numbers
- Adjusting the Floodplain Administrator
- Adjusting State Agency names
- Changing reference dates

PART 2: BACKGROUND

In September 2015, The Federal Emergency Management Agency (FEMA) will update floodplain maps in Mecklenburg County as part of a revision to the Flood Insurance Rate Maps (FIRMs). The FIRMS show property most susceptible to flooding and are used by FEMA and homeowners for flood insurance purposes. The revised FIRMs become effective on September 2, 2015. These amendments are required in order for Mecklenburg County to remain a participating community in the National Flood Insurance Program (NFIP). Participation in NFIP makes FEMA flood insurance and federal disasters assistance available for property owners.

The proposed amendments are include in Exhibit A.

PART 3: Staff Recommendation

The Town Attorney, and Mecklenburg County Storm Water Services have reviewed the proposed Ordinance, and staff recommends that Chapter 151 be amended to be compliant with FEMA revisions to the Flood Insurance Rate Maps. This action is required in order for Mecklenburg County to remain a participate community in the National Flood Insurance Program.

Part 4: Public Hearing

The public hearing was held on August 3, 2015, at which time no comments were received.

Part 5: Attachments

Exhibit A: Huntersville Floodplain Ordinance for Adoption

**AN ORDINANCE TO UPDATE REGULATIONS TO THE
TOWN OF HUNTERSVILLE CODE OF ORDINANCES,
CHAPTER 151 TO TITLE XV: LAND USE**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that the Code of Ordinance is hereby amended, as follows:

Title XV: LAND USE, Chapter 151: FLOOD DAMAGE PREVENTION

Section:

General Provisions

- 151.01 Short title
- 151.02 Statutory authorization
- 151.03 Findings of fact
- 151.04 Statement of purpose
- 151.05 Objectives
- 151.06 Definitions
- 151.07 Lands to which this chapter applies
- 151.08 Basis for establishing the special flood hazard areas
- 151.09 Floodplain development permit required
- 151.10 Compliance
- 151.11 Abrogation and greater restrictions
- 151.12 Interpretation
- 151.13 Warning and disclaimer of liability
- 151.14 Penalties for violation.

Administration and Enforcement

- 151.25 Designation of Floodplain Administrator
- 151.26 Floodplain development permits and certification requirements
- 151.27 Duties and responsibilities of the Floodplain Administrator
- 151.28 Corrective procedures

Appeals and Variances

- 151.40 Authority of Board of Adjustment
- 151.41 Initiation and filing of appeal
- 151.42 Standards and hearing procedure
- 151.43 Initiation and filing of variance petition
- 151.44 Factors for consideration and determination of completeness
- 151.45 Conditions for variances
- 151.46 Standards for granting variance
- 151.47 Miscellaneous conditions
- 151.48 Notification and recordkeeping
- 151.49 Appeal from Board of Adjustment

Provisions for Flood Hazard Reduction

- 151.60 General standards
- 151.61 Specific standards

151.62 Levees

Legal Status Provisions

151.75 Legal status provisions

Appendix A: FEMA floodplain cross-section

Appendix B: FLUM floodplain cross-section

GENERAL PROVISION

Section. 151.01 Short title.

The regulations set out in this ordinance (sometimes herein referred to as "this regulation" or "this ordinance") shall be known and may be cited as the "Floodplain Regulations of Huntersville, North Carolina."

Section. 151.02 Statutory Authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Section. 151.03 Findings of fact.

(a)The flood hazard areas of Huntersville and Huntersville's Land Use jurisdiction are subject to periodic inundation which results in loss of life, increased health and safety hazards, destruction of property, and disruption of commerce and governmental services. Inundation from flood waters results in public expenditures for flood protection, flood disaster relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b)These flood losses are created by the cumulative effect of obstructions in Floodplains, causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

Section. 151.04 Statement of Purpose.

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural Floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging and other Development which may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section. 151.05 Objectives.

(a) The regulations of the Special Flood Hazard Areas herein set forth are intended to protect areas of designated Floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Town as provided in the comprehensive plans as such are adopted and amended from time to time.

(b) The specific intent in establishing Special Flood Hazard Areas composed of floodways and flood fringe areas includes the following:

1. To control uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;
2. To protect human life and health;
3. To minimize the expenditure of public money for costly flood-control projects;
4. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
5. To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways;
6. To minimize prolonged business interruptions;
7. To protect existing drainage courses that carry abnormal flows of stormwater in periods of heavy precipitations;
8. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in Floodplains;
9. To meet the needs of the streams to carry flood waters and protect the creek channels and Floodplains from Encroachment so that flood heights and flood damage will not be increased;
10. To inform existing and potential property owners that property is in a Special Flood Hazard Area as well as the associated flood risks and development restrictions; and

11. To minimize future flood losses by depicting Community Flood Fringe Areas on the Flood Insurance Rate Maps.
 12. To help maintain a stable tax base by providing for the sound use and development of flood prone areas
- (c) This ordinance is intended to permit only that Development within the Floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the Special Flood Hazard Area as shown on the Flood Insurance Rate Maps (FIRM) including FEMA and/or locally approved revisions to data shown on the FIRMs. It is the intent that these regulations combine with and coordinate with the zoning ordinance regulations for the zoning district in which such property is located. Any use not permitted by the zoning regulations shall not be permitted in the Special Flood Hazard Area, and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this ordinance.

Section 151.06 Definitions.

Unless specifically defined in this section, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Accessory Structure means a structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Building means any structure built for support, shelter or enclosure for any occupancy or storage.

Chemical Storage Facility means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Community Base Flood means the flood determined using future land use conditions having a one percent chance of being equaled or exceeded in any given year.

Community Base Flood Elevation means the elevation shown on the Flood Insurance Rate Map Flood Hazard Data Table, having a one percent chance of being equaled or exceeded, determined using future land use conditions.

Community Conditional Letter of Map Revisions (CoCLOMR) means a letter from the Floodplain Administrator that provides conditional approval of a study that proposes to change the location of the Community Encroachment Lines, and/or the location of the Community Flood Fringe Line, and/or Community Base Flood Elevations.

Community Encroachment Area means the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood without cumulatively increasing the water surface elevation more than 0.1 foot. (see attachments).

Community Encroachment Lines are lateral limits of the Community Encroachment Area, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted by this ordinance. (see attachments).

Community Flood Fringe Area: The land area located between the Community Encroachment Line and the Community Flood Fringe Line as defined herein. (see attachments).

Community Flood Fringe Line is the line that depicts the outer limits of the Community Flood Fringe Area (outer limits of the Community Special Flood Hazard Area).

Community Letter of Map Revision (CoLOMR) means a letter from the Floodplain Administrator that provides final approval of a study, based on as-built conditions, that changes the location of the Community Encroachment Lines and/or the Community Flood Fringe Lines.

Community Special Flood Hazard Area is the land subject to a one - percent or greater chance of flooding in any given year from a Community Base Flood. It includes the FEMA Floodway, Community Encroachment Area, FEMA Flood Fringe Area, and the Community Flood Fringe Area. (see attachments).

Conditional Letter of Map Revision (CLOMR) means FEMA's comments on whether a project, if built as proposed, would meet the minimum NFIP standards.

Critical Facility means a building used to house a function that is vulnerable or essential to the community. Uses include but are not limited to: child and adult daycare facilities, nursing homes, schools, hospitals, fire, police and medic facilities and other uses as deemed by the Floodplain Administrator.

Development means any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or storage of equipment or materials.

Disposal means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Dry Public Street means a public street at the intersection of a proposed driveway where the surface of the pavement is at an elevation above the Community Base Flood Elevation.

Dryland Access means a gravel, paved or concrete access route, at least 12' wide, which is above the Community Base Flood Elevation and connects an Habitable Building to a Dry Public Street.

Elevated Building means a non-basement building built to have the lowest floor elevated above the ground level by, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. Building renovations contained within the existing building footprint area are not considered an Encroachment.

Existing Manufactured Home Park or Manufactured Home Subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) was completed before June 1, 1986.

FEMA is the Federal Emergency Management Agency.

FEMA Base Flood means the flood determined using land use conditions at the time of the study having a one percent chance of being equaled or exceeded in any given year.

FEMA Base Flood Elevation (BFE) means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. It is the elevation that indicates the water surface elevation resulting from a FEMA Base Flood that has a one percent chance of equaling or exceeding that level in any given year based on existing land use.

FEMA Flood Fringe Area is the land area located between the FEMA Floodway Lines and the line depicting the maximum elevation subject to inundation by the FEMA Base Flood as defined herein (see attachments).

FEMA Flood Fringe Line is the line on a map that depicts the outer limits of the *FEMA Flood Fringe Area*.

FEMA Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 0.5 foot. On the Catawba River, and the portions of Six Mile Creek and Rocky River which run along the county boundary line, the FEMA Floodway means the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than 1.0 feet.

FEMA Floodway Lines are the lateral limits of the FEMA Floodway. (see attachments).

FEMA Special Flood Hazard Area is the land subject to a one percent or greater chance of flooding in any given year from a FEMA Base Flood. It includes the FEMA Floodway, Community Encroachment Area, and the FEMA Flood Fringe Area. (see attachments)

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of run-off of surface waters from any source.

Flood Insurance means the insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM) means an official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated the Special Flood Hazard Area and the risk premium zones applicable to the community. The date of Huntersville' original FIRM is February 4, 2004 and this date should be used to determine whether a structure is pre-FIRM or post-FIRM.

Flood Insurance Study is an examination, evaluation, and determination of Special Flood Hazard Areas, corresponding water surface elevations, flood insurance risk zones, and other flood data in a community. The study includes a Flood Insurance Study report, and/or Flood Insurance Rate Map (FIRMs).

Floodplain means the land subject to inundation by the Community Base Flood and is encompassed by the Community Special Flood Hazard Area.

Floodplain Administrator (or Administrator) means the person, agent, or his or her designees, appointed to administer, implement and enforce the provisions of this ordinance.

Floodplain Development Permit means either an Individual Floodplain Development Permit or a General Floodplain Development Permit issued for development in the Floodplain per the requirements of Section 16 of this ordinance.

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

Flood Protection Elevation means the elevation to which all structures located within the Community Special Flood Hazard Area must be elevated (or floodproofed if non-residential). Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the Community Base Flood Elevation plus one (1) foot of freeboard. Along the Catawba River, the Flood Protection elevation is the FEMA Base Flood Elevation plus two (2) feet of freeboard. In areas where no BFE has been established, all structures and other Development must be elevated (or floodproofed if non-residential), to two (2) feet above the highest adjacent grade.

Floodwall means a wall built along a shore or bank to protect an area from flooding.

Floodway means the either the FEMA Floodway or the Community Encroachment Area.

Flood Zone means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floor (see Lowest Floor)

Freeboard means the height added to the Community Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Community Base Flood Elevation (BFE) plus the freeboard establishes the "Flood Protection Elevation".

Functionally Dependent Facility means a facility that cannot be used for its intended purpose, unless it is located or carried out in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

General Floodplain Development Permit is a permit issued for certain types of Development in the Floodplain per Section 16 of this ordinance.

Habitable Building means a structure designed primarily for, or used for human habitation. This includes, but is not limited to, houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes, and similar uses. It does not include Accessory Structures. (see definition above).

Hazardous Waste Management Facility means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

Highest Adjacent Grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic Structure means any structure that is:

1. listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
2. certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program”; or
4. certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Individual Floodplain Development Permit means a permit for Development in the Floodplain that involves activities not listed in Section 16 B. (1) and may not qualify for a General Floodplain Development Permit.

Letter of Map Revision (LOMR) means an official amendment to the currently effective FEMA FIRM based on as-built conditions. It is issued by FEMA and may change FEMA Base Flood Elevations, the location of the FEMA Floodway Lines and/or the location of the FEMA Flood Fringe line.

Letter of Map Amendment (LOMA) means a letter from FEMA that officially removes a property or building from the FEMA Special Flood Hazard Area (SFHA) that was inadvertently shown in the SFHA on the FIRM.

Letter of Map Revision based on Fill (LOMR-F) means a letter from FEMA that officially removes a property from the FEMA Special Flood Hazard Area (SFHA) as a result of placing fill on the property.

Levee means a manmade structure, usually an earthen embankment, Floodwall or a combination of both that is designed and constructed to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of Levee(s) and/or Floodwall(s) and associated structures, such as closure and drainage devices.

Lowest Adjacent Grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's Lowest Floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Market Value means the value of a building, excluding land value, that is determined by an appraiser certified in North Carolina. The tax value of the building may be used for screening purposes.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with the "North American Vertical Datum of 1988 (NAVD 88)."

New Construction means construction of a replacement structure commenced after total demolition, or renovation/rehabilitation of an existing structure that results in the partial or complete removal of 2 external walls and has a total cost equal to or exceeding 50 percent of the market value of the structure before the "start of construction" of the improvement. For flood insurance purposes, New Construction also means structures for which the start of construction commenced on or after June 1, 1986 and includes subsequent improvements to such structures

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after June 1, 1986.

Nonconforming Building or Use means any legally existing building or use which fails to comply with the provisions of this ordinance.

Non-solid Fence means a fence with at least 75% open area.

North American Vertical Datum (NAVD) as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used then use the datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion. See Flood Insurance Administration (FIA)-20 part 1, 8.

Open House Forum is a public meeting held by the owner of the proposed Levee and the Director of Mecklenburg County Storm Water Services, or his designee. The purpose of the Open House Forum is to

provide an opportunity for discussion between the owner that has submitted an application for the construction of a Levee, nearby property owners, and other interested parties.

Post-FIRM means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

Principally Above Ground means that at least 51% of the actual cash value of the structure is above ground.

Public Safety and/or Nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational Vehicle means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a car or light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporarily living quarters for recreational, camping, travel or seasonal use.

Reference Level is the portion of a structure or other Development that must be compared to the flood protection elevation to determine regulatory compliance of such structure. Within Special Flood Hazard Areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor.

Remedy a Violation means to bring the structure or other Development into compliance with this ordinance or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected Development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other Development.

Repetitive Loss means flood-related damages sustained by a structure on two (2) separate occasions during any 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the Market Value of the structure before the damage occurred.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage Yard means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid Waste Disposal Facility means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid Waste Disposal Site means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area means the FEMA Special Flood Hazard Area. See definition above.

Start of Construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring a slab or footing, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not parts of the main structure. For Substantial Improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure means for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, that are principally above ground.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to the condition before damage occurred would equal or exceed 50 percent of the market value of the structure before the damages occurred. *Substantial Damage* also means flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of "Substantial Improvement."

Substantial Improvement means any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (a) any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Improvement also means any repair, reconstruction, or improvement to a structure on two separate occasions during a 10 year period for which the total cost of repairs, reconstruction or improvement at the time of each alteration, equals or exceeds 25 percent of the market value of the structure before the damage occurred or the Substantial Improvement began. The Floodplain

Administrator may determine if separate actions constitute a single project (Section 29 (13)). For the purposes of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Technically Measurable means an activity and/or condition that can be modeled within the stated or commonly known accuracy of the FEMA approved hydraulic models or other engineering computations, and may have an impact on Base Flood Elevations. The Floodplain Administrator will determine if a proposed activity and/or condition meets the Technically Measurable definition.

Variance is a grant of relief to a person from the requirements of this ordinance.

Violation means the failure of a structure or other Development to be fully compliant with this ordinance. A structure or other Development without the elevation certificate, other certifications or other evidence of compliance required in Articles III and V is presumed to be in violation, until such time as the documentation is provided.

Water Surface Elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse means a lake, river, creek, stream, channel or other topographic feature within a Special Flood Hazard Area on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Section. 151.07 Lands to which this ordinance applies.

This ordinance shall apply to all lands in the land use jurisdiction of the Town of Huntersville within the area shown on the Flood Insurance Rate Maps (FIRM) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the Community Special Flood Hazard Areas or land adjacent to the Community Special Flood Hazard Areas if it is affected by the work that is taking place.

Section. 151.08 Basis for establishing the Special Flood Hazard Areas

The Flood Insurance Rate Maps (FIRM), FEMA and/or locally approved revisions to data shown on the FIRMs, Flood Insurance Study and other supporting data, for Mecklenburg County including the Town of Huntersville, dated September 2, 2015, are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

Mecklenburg County Unincorporated Area, dated June 1, 1981.

Section. 151.09 Floodplain Development Permit required.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any Development activities. The *Technical Guidance Document* may be used for illustrative purposes to assist in determining the applicable type of Floodplain Development Permit required.

Section. 151.10 Compliance.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

Section. 151.11 Abrogation and greater restrictions.

It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this ordinance imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of laws or ordinances, or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this ordinance shall control.

Section. 151.12 Interpretation.

In the interpretation and applications of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed to meet the purposes and objectives of this regulation as stated in Sections 4 and 5; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

Section. 151.13 Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Huntersville, Mecklenburg County, or on any agent, officer or employee thereof for any flood damages that result from reliance on this ordinance or by any administrative decision lawfully made hereunder.

Section. 151.14 Penalties for violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of Floodplain Development Permits, Variances or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Huntersville or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief.

ADMINISTRATION AND ENFORCEMENT

Section. 151.25 Designation of Floodplain Administrator.

The Town designates the Planning Director, or his or her designee as the Floodplain Administrator and the County Floodplain Administrator or his or her designated agent, as the persons with the authority to administer, implement and enforce the provisions of this ordinance through a properly executed, legally binding interlocal agreement.

Section. 151.26 Floodplain Development Permits and certification requirements.

(A) A Floodplain Development Permit is required for any Development within the Community Special Flood Hazard Area (CSFHA) and is subject to the conditions below. The Floodplain Administrator is authorized to create, and amend from time to time as necessary, a Technical Guidance Document to help explain the application of the provisions of this ordinance, specifically the Floodplain Development Permit provisions, through the use of charts and related written materials. The Technical Guidance Document shall not be a part of this ordinance, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the Technical Guidance Document and this ordinance, the provisions of this ordinance shall control.

(B) Floodplain Development Permits fall into one of two types: General Floodplain Development Permits (GFDP) and Individual Floodplain Development Permits (IFDP). If the proposed development activities meet the requirements of the General Floodplain Development Permit, an Individual Floodplain Development Permit is not required.

1. General Floodplain Development Permit – The intent of the General Floodplain Development Permit (GFDP) is to allow uses or activities in the Community Special Flood Hazard Area (including the FEMA Floodway and Community Encroachment Area) which inherently will not increase FEMA and/or Community Base Flood Elevations. The following uses and activities are permitted under a GFDP, without the need for an Individual Floodplain Development Permit, flood study or variance, as long as they result in no Technically Measurable increases in FEMA and/or Community Base Flood Elevations.

- a. General farming, pasture, horticulture, forestry, wildlife sanctuaries, gardens, lawns, landscaping and other similar activities;
- b. Utility infrastructure (poles, sewer manholes, vent pipes, underground utilities, etc.), sign poles, non-solid fences, and other similar activities.
- c. On-grade driveways, trails, sidewalks, boardwalks, roads and road maintenance; storm drainage system construction, repairs and maintenance (Major & Minor system), and other similar activities. The Floodplain Administrator must be notified in writing, including a project description and sketch plan, prior to commencement of these activities.
- d. Interior renovations with a value of less than \$10,000, to a structure with its Reference Level not meeting the requirements of Section 30 (A) (1),(2).
- e. Interior renovations of any value, to a structure with its Reference Level meeting the requirements of Section 30 (A) (1),(2).

2. Individual Floodplain Development Permits. Individual Floodplain Development Permits are required for all other projects that do not meet the requirements of a General Floodplain Development Permit. Application for an Individual Floodplain Development Permit (IFDP) shall be made to the Floodplain Administrator on forms furnished by him or her prior to any Development activities proposed to be located within the Community Special Flood Hazard Area. Requirements for submittal are available from the Floodplain Administrator.

3. Certification Requirements.

- a. A Final As-Built Elevation Certificate (*FEMA Form 086-0-33*) (for either residential or non-residential buildings) or Floodproofing Certificate (*FEMA Form 086-0-34*) is required after construction is completed and prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or floodproofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- b. For proposed Development to be located outside of the Community Encroachment Area and the FEMA Floodway, a certification from a registered land surveyor or professional engineer that states that no fill material or other development was placed within the FEMA Floodway or Community Encroachment Area of any watercourse, will be required prior to issuance of a

Certificate of Occupancy or Temporary Certificate of Occupancy.

- c. For proposed Development within the Community Encroachment Area or the FEMA Floodway, an as-built topographic map prepared by a registered land surveyor or professional engineer will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. This is in addition to a no-rise/no-impact study or CLOMR that may be required as specified in Section 30 (A)(6) may be required
- d. If a manufactured home is placed within the Floodplain and the elevation of the chassis is 36 inches or higher above adjacent grade, an engineered foundation certification is required.
- e. Certification Exemptions. The following structures, if located within the Floodplain, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
 - i. Recreational Vehicles meeting requirements of Section 30 (A)(9);
 - ii. Temporary Structures meeting requirements of Section 30 (A) 10); and
 - iii. Accessory Structures less than 150 square feet meeting requirements of Section 30 (A)(11).
- f. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

4. Permit Application Requirements

- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) the location of the Community Flood Fringe Line, Community Encroachment Line, FEMA Flood Fringe Line and FEMA Floodway Line as shown on the FIRM or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map ;
 - (iv) the FEMA Base Flood Elevation (BFE) and Community Base Flood Elevation (CBFE)
 - (v) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (vi) the certification of the plot plan by a registered land surveyor or professional engineer.

- b. Proposed elevation, and method thereof, of all development within a Community Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, will be floodproofed; and
 - (iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
- c. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, inspection and maintenance of floodproofing measures.
- d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in Community Special Flood Hazard Area
- e. Usage details of any enclosed areas below the lowest floor.
- f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- g. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- h. Documentation for proper placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 30 (A) (9), (10) are met
- i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

- 5. Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- a) A description of the development to be permitted under the floodplain development permit.
 - (b) The Special Flood Hazard Area determination for the proposed development
 - (c) The Flood Protection Elevation required for the reference level and all attendant utilities.
 - (d) The Flood Protection Elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - (g) The flood openings requirements per Section 30 (A) (4)

Section. 151.27 Duties and responsibilities of the Floodplain Administrator.

The Floodplain Administrator is authorized to and shall perform, but not be limited to, the following duties:

1. Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of this ordinance have been satisfied.
2. Reviewing, approving and issuing all documents applicable to Letters of Map Change.
3. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
4. Notifying adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
5. Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered Watercourse so that the flood-carrying capacity is maintained.
6. Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of Article V are met.
7. Reviewing and recording the actual elevation (in relation to mean sea level) of the Reference Level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 16 (B) (3).
8. Reviewing and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been floodproofed, in accordance with Section 16 (B) (3).
9. Obtaining certifications from a registered professional engineer or architect in accordance with Section 30 (A) (2) when floodproofing is utilized for a particular non-residential structure.
10. Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears

to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 CFR Parts 59-78).

11. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
12. Making on-site inspections of projects.
13. Serving notices of violation, issuing stop work orders, revoking permits and taking corrective actions.
14. Maintaining a copy of the Letter of Map Amendment issued from FEMA in the Floodplain Development Permit file when a property owner has received a Letter of Map Amendment (LOMA). (A LOMA is typically applied for and approved when the exact location of boundaries of the FEMA Special Flood Hazard Area conflicts with the current, natural topography information at the site.)
15. Determining the required information to be submitted with an application for approval of an Individual Floodplain Development Permit.
16. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
17. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of whether the proposed construction activities constitute New Construction for purposes of this ordinance.
18. Reviewing and acknowledging FEMA Conditional Letters of Map Revision and FEMA Letters of Map Revision.
19. Reviewing and approving Community Conditional Letters of Map Revision and Community Letters of Map Revision
20. Making on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit.
21. Issuing stop-work orders. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing the work. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.
22. Revoking Floodplain Development Permits. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial

departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his agent, or under other circumstances where allowing resubmittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit.

23. Making periodic inspections. The Floodplain Administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
24. Providing owners of structures in the Floodplain with information concerning their flood risk, and (for structures with the Lowest Floor below the Flood Protection Elevation) inform potential buyers of Substantial Improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.
25. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 16 (B) (3).

Section. 151.28 Corrective Procedures.

1. Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws and notifies the property owner or building occupant of the violation, the owner or occupant shall immediately remedy each violation of law cited in the notice.
2. Actions in event of failure to take corrective action. If the owner or occupant of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give written notice, by certified or registered mail to the last known address or by personal service that:
 - a. The building or property is in violation of the Floodplain Regulations;
 - b. A hearing will be held before the Floodplain Administrator at a designated place and time, not later than twenty (20) calendar days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - c. Following the hearing, the Floodplain Administrator may issue such order to alter, vacate or demolish the building, or to remove fill or other unauthorized Encroachment, as appears appropriate.
3. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or Development is in violation of the Floodplain Regulations, he shall issue an order in writing to the owner or occupant, requiring the owner or occupant to remedy the violation within such period, not less than sixty (60) calendar days, as the

Floodplain Administrator may prescribe; provided that, where the Floodplain Administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

4. Appeal. Any owner or occupant who has received an order to take corrective action may appeal the order to the Huntersville Zoning Board of Adjustment (hereinafter referred to as the "Board of Adjustment" or "Board") as provided in Article IV, Section 20. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.
5. Failure to comply with order. If the owner or occupant of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Adjustment following an appeal, he/she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in Article II, Section 14.

APPEALS AND VARIANCES

Section. 151.40 Authority of Board of Adjustment.

- (A) The Board of Adjustment shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding these regulations.
- (B) The Board of Adjustment shall hear and decide petitions for Variances from the requirements of this ordinance.

Section 151.41 Initiation and Filing of Appeal.

- (A) An appeal of an order, decision, determination or interpretation made by the Floodplain Administrator may be initiated by any person aggrieved by any officer, department, board or bureau of the Town.
- (B) A notice of appeal in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, within twenty (20) days of the order, decision, determination or interpretation and must be accompanied by a nonrefundable filing fee as established by the Town council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section and the Board of Adjustment shall have no jurisdiction to hear the appeal.

Section 151.42 Standards and Hearing Procedure.

(A) The Board of Adjustment will conduct the hearing on an appeal of an order, decision, determination or interpretation of these regulations in accordance with its normal hearing procedures as set out in the Town of Huntersville Zoning Code.

(B) At the conclusion of the hearing, the Board of Adjustment may reverse or modify the order, decision, determination or interpretation under appeal upon finding an error in the application of these regulations on the part of the Floodplain Administrator who rendered the decision, determination or interpretation. In modifying the decision, determination or interpretation, the Board will have all the powers of the officer from whom the appeal is taken.

Section 151.43 Initiation and Filing of Variance Petition.

(A) A petition for Variance may be initiated only by the owner of the affected property, or an agent authorized in writing to act on the owner's behalf.

(B) A petition for a Variance from these regulations in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, and be accompanied by a nonrefundable filing fee as established by the Town council.

Section 151.44 Factors for Consideration and Determination of Completeness

(A) In passing upon Variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:

1. Danger that materials allowed to be placed in the floodway as a result of the Variance may be swept onto other lands to the injury of others during a Community Base Flood;
2. Danger to life and property due to flooding or erosion damage from a Community Base Flood;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage during the Community Base Flood;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flooding or erosion damage during a Community Base Flood, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated Development;
8. Relationship of the proposed use to the Mecklenburg County Floodplain Management Guidance Document, Mecklenburg County Flood Hazard Mitigation Plans, the Mecklenburg County Greenway Plan, and any other adopted land use plans for that area;
9. Safety of access to the property in times of a Community Base Flood for ordinary and emergency vehicles.
10. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters during a Community Base Flood expected at the site; and

11. Costs of providing governmental services during and after flood events, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.

(B) A written report addressing each of the above factors shall be submitted with the application for a Variance.

(C) Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of Variances as it deems necessary to further the purposes of this ordinance.

(D) Variances may be issued for the repair or rehabilitation of Historic Structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the Variance is the minimum necessary to preserve the historic character and design of the structure.

(E) Functionally dependent facilities if determined to meet the definition as stated in Article I Section 6 of this ordinance, provided provisions of Article 6 have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(F) Any other type of development, provided it meets the requirements of this Section.

Section 151.45 Conditions for Variances.

(A) Variances shall not be issued when the Variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(B) Variances shall not be issued within any designated Floodway if the Variance would result in any increase in flood levels during the Community and/or FEMA Base Flood discharge unless the requirements of 30 (A) (6) are met.

(C) Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.

(D) Variances shall only be issued prior to approval of a Floodplain Development Permit.

Section 151.46 Standards for Granting Variance.

(A) Variances shall only be issued upon:

1. a showing of good and sufficient cause;
2. a determination that failure to grant the Variance would result in exceptional hardship; and
3. a determination that the granting of a Variance will not result in increased flood

heights (unless the requirements of Section 30 (A)(6) are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

- (B) The fact that the property could be utilized more profitably or conveniently with the Variance than without the Variance shall not be considered as grounds for granting the Variance.

Section 151.47 Miscellaneous Conditions.

- (A) In addition to consideration of the items in 23 (A), if Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment upon consideration of the following conditions:

1. a determination that all possible alternatives have been investigated in an attempt to provide the safest access from a proposed Habitable Building to a dry public street.
- 2.. the existence of a site plan prepared by a Licensed Land Surveyor or Professional Engineers indicating that the proposed access to Habitable Buildings on the property poses the least risk from flooding.

- (B) In addition to consideration of the items in 23(A), a Variance may be issued by the Board of Adjustment for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following criteria are met:

1. The use serves a critical need in the community.
2. No feasible location exists for the use outside the Special Flood Hazard Areas.
3. The Reference Level of any structure is elevated above the Community Base Flood Elevation or is designed and sealed by a Professional Engineer or a Registered Architect to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
4. There will be no storage of materials or tanks which could flood within the Special Flood Hazard Area unless they are contained in a structure as defined in 3. above.
5. The use complies with all other applicable laws and regulations.
6. The Town of Huntersville has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the Variance.

Section 151.48 Notification and Recordkeeping.

- (A) Any applicant to whom a Variance from the FEMA Base Flood Elevation is granted shall be given written notice specifying the difference between the FEMA Base Flood Elevation and the elevation to which the structure is to be built and a written statement that the cost of

flood insurance will be commensurate with the increased risk resulting from the reduced Lowest Floor elevation. Such notification shall be maintained with a record of all Variance actions.

- (B) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the State of North Carolina upon request.

Section 151.49 Appeal from Board of Adjustment.

- (A) Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a Floodplain Development Permit shall have 30 days to file an appeal to Mecklenburg County Superior Court, as provided in N.C.G.S. 143-215.57 (c).
- (B) Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a Variance, shall have 30 days from the receipt of the Board's decision to file a petition for review in the nature of *certiorari* in Mecklenburg County Superior Court.

PROVISIONS FOR FLOOD HAZARD REDUCTION

Section. 151.60 General standards.

- (A) In all Special Flood Hazard Areas, the following provisions are required:
 - 1. All New Construction and Substantial Improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - 2. Manufactured Homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 - 3. All New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - 4. All New Construction or Substantial Improvements shall be constructed by methods and practices that minimize flood damage;
 - 5. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed, constructed, installed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric wiring, and outlets/switches;
 - 6. All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system;
 - 7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system and discharges from the systems into floodwaters;

8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "New Construction" as contained in this ordinance;
10. Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance, in Special Flood Hazard Area. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated above the Community Base Flood Elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
11. Any new critical facility must be located outside of the 500-year (0.2%) flood fringe area and elevated at least one foot above the 500-year (0.2%) flood elevation or the Community Base Flood Elevation whichever is greater. The determination of this flood fringe area and elevation will be provided by the Floodplain Administrator;
12. Subdivisions. All Development proposals submitted for review and approval in accordance with the Town of Huntersville Subdivision Ordinance shall also comply with the following provisions:
 - a. locate and construct public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize flood damage;
 - b. construct all new streets located in a Community Special Flood Hazard Area in accordance with the applicable provisions of the Subdivision Ordinance;
 - c. design and construct adequate drainage to reduce exposure to flood hazards; and
 - d. take such other appropriate measures needed to minimize flood damage.
 - e. receive all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
13. For the purpose of determining Substantial Improvement, the Floodplain Administrator shall make a determination of the total cost of repairs as it relates to a Substantial Improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.
14. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

15. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

Section. 151.61 Specific standards.

- (A) Review and implementation of SWIM buffer regulations shall be concurrent and coordinated with the provisions of this chapter, so that both are satisfied. In all Community and FEMA Special Flood Hazard Areas where Community and FEMA Base Flood Elevation data have been provided, the following provisions are required:

1. Residential construction.

- a. New Construction or Substantial Improvement of any residential structure shall have the Reference Level, elevated at least one foot above the Community Base Flood Elevation.
 - i. Non-substantial Improvements Notice
Renovations/rehabilitations costing between 25% and 50% of the Market Value of the existing building and said building having the Reference Level below the Flood Protection Elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the Technical Guidance Document) with the Mecklenburg County Register of Deeds Office prior to the issuance of a Building Permit.

2. Nonresidential construction.

New Construction or Substantial Improvement of any commercial, industrial or nonresidential structure shall meet the requirements for residential construction in Section 30 (A) (1) above, or the structure may be floodproofed in lieu of elevation, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 16 (B) (3).

3. New Buildings Removed From the FEMA Special Flood Hazard area by Fill.

When new buildings have been constructed on land that has been removed from the FEMA Special Flood Hazard Area by the placement of fill, they must have the Reference Level (including basement) elevated at least one foot (two feet on the Catawba River including Lake Norman) above the Community Base Flood Elevation.

4. Elevated buildings.

New Construction or Substantial Improvement of elevated buildings, that include fully enclosed areas formed by foundation and other exterior walls below the Community Base Flood Elevation shall meet the requirements of Section 30 (A), and shall be designed to preclude finished living space and

designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - i. Provide a minimum of two (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one (1) foot above adjacent grade at the opening ;
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
 - iv. Openings must be on different sides of the enclosed area if possible; and
 - v. If the building has more than one enclosed area, each must have openings.
 - b. Foundation enclosures:
 - i. Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above.
 - ii. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.
 - c. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises, (standard exterior door) or entry to the living area (stairway or elevator).
 - d. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
 - e. shall be constructed entirely of flood resistant materials at least to the Flood Protection Elevation.
5. Dryland Access. Access to Habitable Buildings during a flood event is extremely hazardous. Dryland Access must be provided to new or Substantially Improved Habitable Buildings according to the following criteria:

Dryland Access is required if any portion of either the Habitable Building or vehicular access route, connecting the Habitable Building to a public street, is within the Floodplain. If Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment. Plans and details for the Dryland Access must be submitted by a registered professional engineer or surveyor and approved by the Floodplain Administrator.

The following are exempt from the Dryland Access requirement.

- a. Substantial Improvement to an existing Habitable Building where the property does not have any access to a Dry Public Street.

b. Construction of a new Habitable Building where both the Habitable Building and the access route connecting it to a public street, are located entirely outside the Community Encroachment Area and where the property does not have any access to a Dry Public Street. Under this exemption, access from the Habitable Building to the public street must;

- i. Connect to the highest point of the public street adjacent to the property;
- ii. Be constructed of gravel, pavement or concrete and be at least 12' wide; and
- iii. Be constructed entirely at or above the elevation of highest point of the public street adjacent to the property.

6. FEMA Floodway and Community Encroachment Area. The FEMA Floodway and the Community Encroachment Area are very hazardous areas due to the velocity of floodwaters which carry debris and potential projectiles and have erosion potential. The following provisions shall apply within each of these designated areas:

a. Community Encroachment Area. No Encroachments, requiring an Individual Floodplain Development Permit (Section 16), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the Community Encroachment Area unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that such Encroachment would not result in increased flood heights of greater than 0.10' during the occurrence of a Community Base Flood. Such certification and associated technical data by a registered engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise of more than 0.10' in the Community Base Flood Elevation will require notification of impacted property owners, and a Community Conditional Letter Of Map Revision (CoCLOMR) from the Floodplain Administrator. If approved and constructed, as-built plans must be submitted and approved by the Floodplain Administrator and a Community Letter of Map Revision (CoLOMR) issued. A Certificate of Occupancy will not be issued without the above stated Community Letter of Map Revision.

Projects impacting existing Habitable Buildings that increase the Community Base Flood Elevation more than 0.00' will not be allowed without a Variance.

b. FEMA Floodway. No Encroachments requiring an Individual Floodplain Development Permit (Section 16), including fill, New Construction, Substantial Improvements and other Development shall be permitted within the FEMA Floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that such Encroachment would not result in any (0.00') increase in the FEMA Base Flood Elevations during the occurrence of a FEMA Base Flood and no increase in the Community Base Flood Elevations during the occurrence of

the Community Base Flood. Such analysis performed by a registered professional engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise in the FEMA Base Flood Elevation or an increase in the FEMA Floodway width during the occurrence of the FEMA Base Flood will require notification of impacted property owners, and a Conditional Letter Of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter Of Map Revision issued. A Certificate of Occupancy will not be issued without the above stated Letter of Map Revision.

Any change which would cause a rise in the Community Base Flood Elevation or an increase in the width of the Community Encroachment Area during the occurrence of the Community Base Flood will require notification of impacted property owners, and a Community Conditional Letter Of Map Revision (CoCLOMR).

Projects which cause a rise of greater than 0.00' in the FEMA Base Flood Elevation and impact an existing Habitable Building, will not be allowed.

- c. No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Section 30 (A)(8) are met.

7. Additions/Improvements.

- a. Additions and/or improvements to pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
 - i. are not a Substantial Improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - ii. are a Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Section 30 (A) (1).
- b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall require only the addition to comply with the standards of Section 30 (A) (1)
- c. Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure
 - i. are not a Substantial Improvement, the addition and/or improvements only must comply with the standards for New Construction.
 - ii. are a Substantial Improvement, both the existing structure and the addition and/or improvements must comply with the standards of Section 30 (A) (1).

8. Manufactured Homes:

- a. New and replaced Manufactured homes shall be elevated such that the Reference Level of the manufactured home is elevated at least one (1) foot above the Community Base Flood Elevation.
- b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement, either by certified engineered foundation system, or in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by raising the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.
- c. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivision located within the Special Flood Hazard Area. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- d. All enclosures or skirting below the lowest floor shall meet the requirements of Section 30 (A) (4).

9. Recreational Vehicles shall either:

- a. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- b. meet all the requirements for New Construction.

10. Temporary Structures. Prior to issuance of a Floodplain Development Permit for a temporary structure the following requirements must be met:

- a. All applicants must submit to the Floodplain Administrator a plan for removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
 - i. a specified time period for which the temporary use will be permitted. The time specified may not exceed 90 days and is renewable up to one year.
 - ii. the name, address, and phone number of the individual responsible for the removal of the structure;
 - iii the time frame prior to the event at which a structure will be removed;

- iv. a copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
 - v. designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed.
- b. The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.
11. Accessory Structure. When accessory structures (sheds, detached garages, etc.), are to be placed in the Floodplain the following criteria shall be met:
- a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - b. Accessory structures shall be designed to have a low flood damage potential;
 - c. Accessory structures shall be firmly anchored in accordance with Section 29 (A)(1); and
 - d. Service facilities such as electrical shall be elevated in accordance with Section 29 (A)(5).
 - e. Accessory structures shall have hydrostatic openings per Section 30 (A)(4).
 - f. Accessory structures under 150 square feet do not require an elevation or floodproofing certificate.
 - g. Accessory structures shall not be temperature-controlled
 - h. Accessory structures will require a Floodplain Development Permit and a building permit.
12. All parking areas for new or substantially improved non-single family Habitable buildings must be at an elevation such that water depths would be less than 6" deep in any parking space during the occurrence of a Community Base Flood.

Section. 151.62 Levees

In all Community and FEMA Special Flood Hazard Areas where Community and FEMA Base Flood Elevation data have been provided, the following provisions for Levees are required as set forth in Section 8.

(A). General Levee Requirements

- 1. Levees will be treated as Development in the Floodplain and are subject to all applicable sections of this Ordinance.
- 2. The primary purpose of a Levee must be to protect Habitable Buildings from flooding above the Lowest Floor from a Community Base Flood event. However, the protection of buildings that are not Habitable Buildings or Habitable Buildings that flood in less than the Community Base Flood event are permissible incidental results of the location of the Levee.

3. With the exception of a Levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, Levees require the approval of the Director of Mecklenburg County Storm Water Services, or his designee, regardless of their location within the Community Special Flood Hazard Area (entire Floodplain).
4. With the exception of a Levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, the owner of the Levee and the Director of Mecklenburg County Storm Water Services, or his designee, shall conduct an Open House Forum prior to consideration of approval. The Open House Forum initiates a 30-day comment period for the Director or his designee to receive comments from the public.
5. Owners of land adjacent to a proposed Levee shall be notified of the Open House Forum and be provided an opportunity to submit written comments during the 30-day comment period. Notification is to occur through regular mail, as well as a sign being placed at a conspicuous place at the creek and along the public and private road(s) of the properties that would be protected by the proposed Levee.
6. After the end of the 30-day comment period, but no more than 60 days from the end of the comment period, the Director shall approve or disapprove the application or request more information from the owner of the Levee. If the Director determines that the additional information is sufficiently significant, the Director may offer an additional 30-day comment period to all parties involved. Consistent with Article VI, the Director's decision may be appealed to the Zoning Board of Adjustment
7. Regardless of whether the proposed Levee would meet FEMA certification requirements, floodplain lines and flood elevations will not be modified based on the location, performance or any other aspects of the Levee.

(B) Levee Permitting Requirements

Prior to the issuance of a Floodplain Development Permit for construction of a proposed Levee, the applicant must submit the following information in writing to the Floodplain Administrator for review and written approval:

1. Plans and/or specifications showing the location of the proposed Levee is as far away from the adjacent creek as reasonably possible;
2. A copy of the written approval for the Levee received from the Director of Mecklenburg County Storm Water Services;
3. Verification of notification to owners of land adjacent to the proposed Levee (those within 500 feet of the property lines of the parcel on which the proposed Levee is to be located or within a distance equal to the length of the proposed Levee, whichever is greater), Notification is also to include properties that are in the Community Special Flood Hazard Area and within the hydraulic modeling limits as described below;
4. Copies of all written comments received from property owners referenced above;

5. Hydrologic and hydraulic flood models showing the proposed-conditions if the Levee is proposed to be located within the Community Encroachment Area and that accounts for the future construction of other Levees;
6. A copy of the contract with the entity responsible for construction of the proposed Levee;
7. A copy of the maintenance plan for the Levee which has been certified by a NC Professional Engineer, which shall include a description of the process by which the Levee will be inspected annually and provide for updated plans to be provided annually to property owners and residents intended to benefit from the Levee.

LEGAL STATUS PROVISIONS

Section 151.75 Legal Status Provisions

(A) Effect on rights and liabilities under the existing Floodway Regulations.

This ordinance in part comes forward by re-enactment of some of the provisions of the Floodway Regulations enacted June 1, 1986 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance enacted on ____ June 1, 1986 which are not reenacted herein, are repealed.

The date of the initial Flood Damage Prevention Ordinance for Mecklenburg County is December 4, 1972.

(B) Effect upon outstanding Floodplain Development Permits.

Nothing herein contained shall require any change in the plans, construction, size or designated use of any Development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator before the time of passage of this Floodplain Regulation ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of two (2) years subsequent to passage of this ordinance or any revision thereto, such permit shall become void and construction or use shall be in conformity with the provisions of this ordinance.

Any application(s) for a Floodplain Development Permit received prior to the effective date of these Floodplain Regulations shall be reviewed under the regulations in effect at the time of the initial application. Any incomplete application(s) for a Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably

complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

(C) Expiration of Floodplain Development Permits issued after Floodplain Regulation adoption.

Individual Floodplain Development Permits issued pursuant to this ordinance expire two years after the date of issuance unless (i) the work has commenced within two (2) years after the date of issuance, or (ii) the issuance of the permit is legally challenged in which case the permit is valid for two (2) years after the challenge has been resolved.

Any incomplete application(s) for an Individual Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

EFFECTIVE DATE.

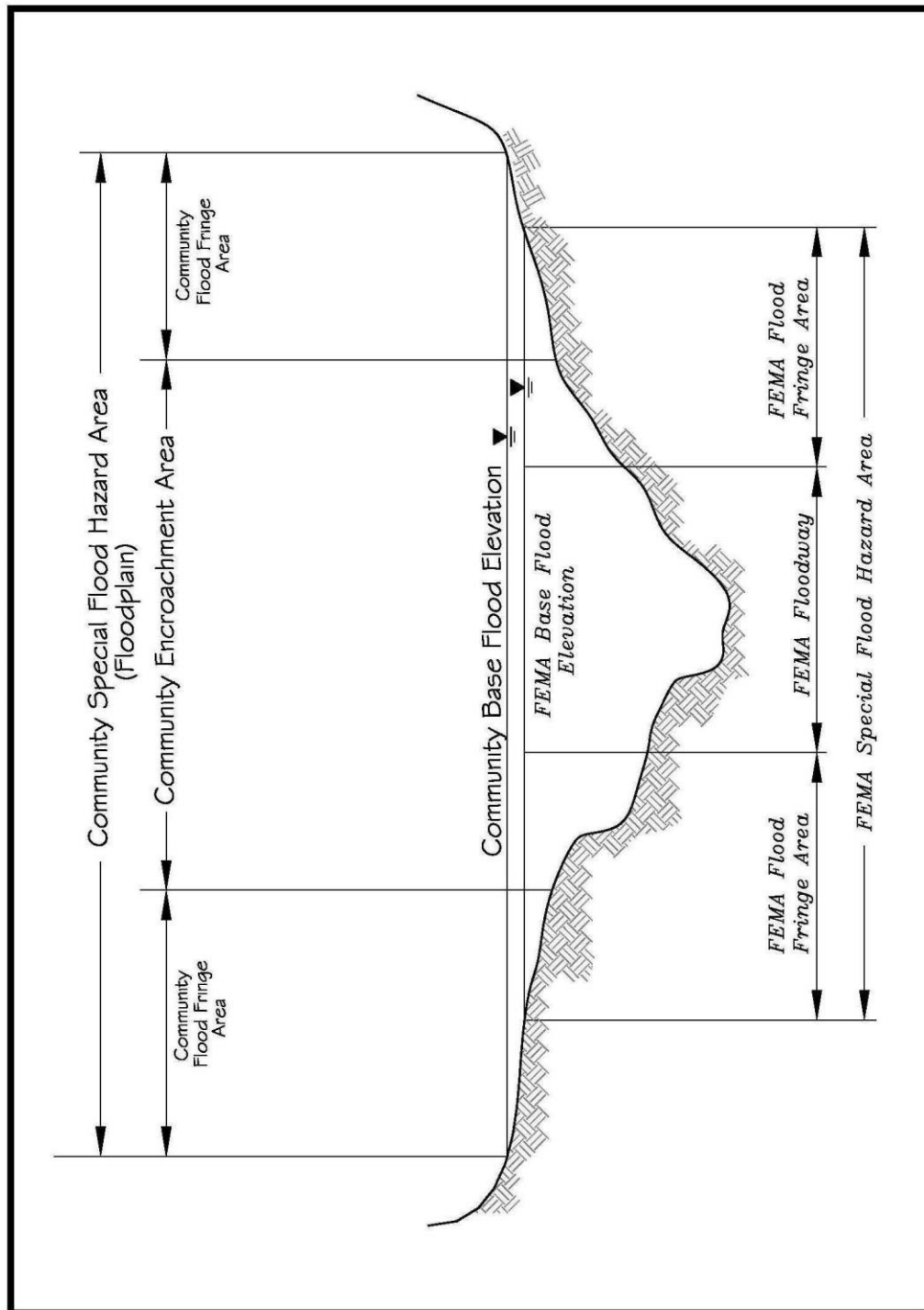
This ordinance shall become effective upon adoption.

ADOPTION CERTIFICATION

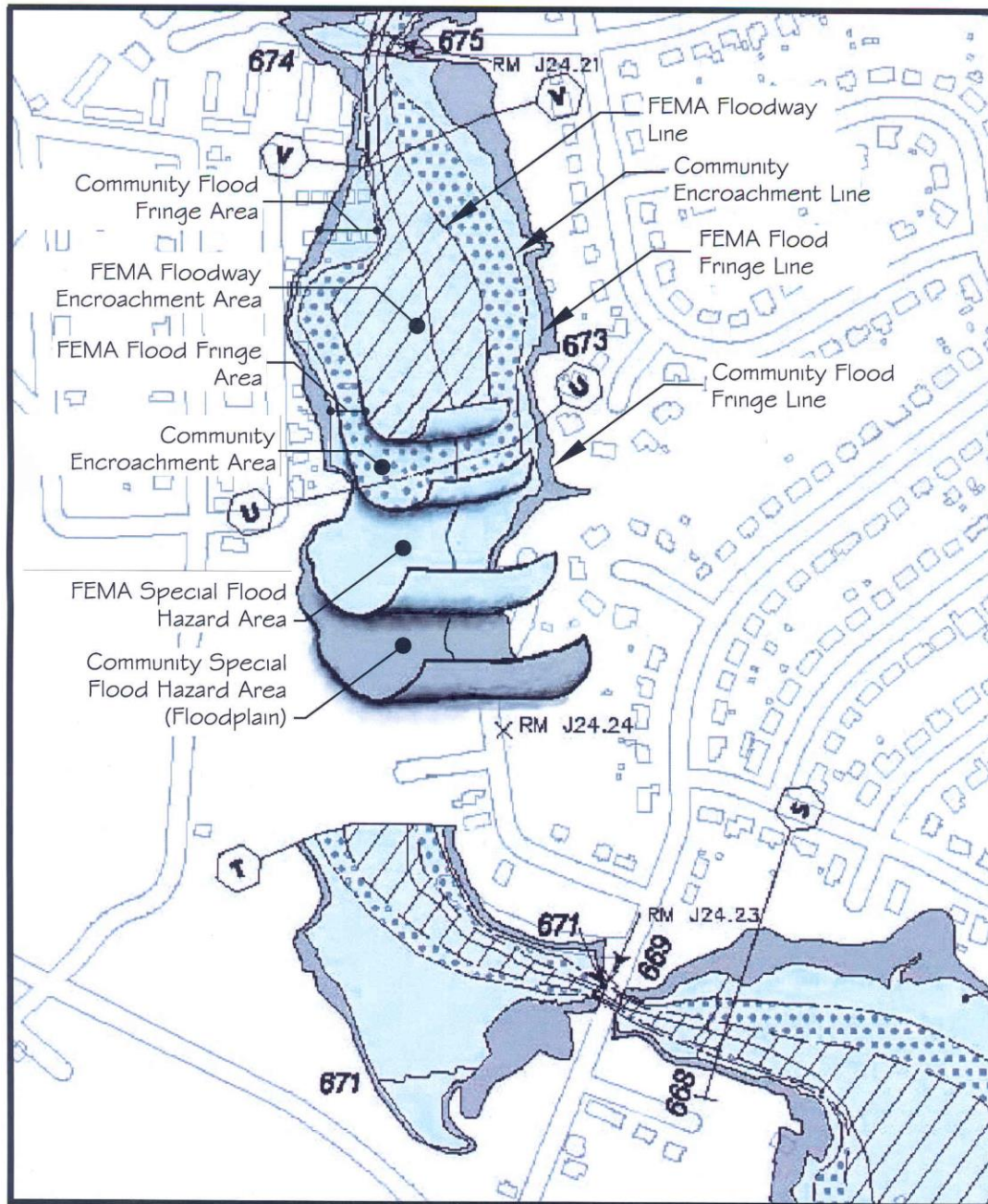
I hereby certify that this is a true and correct copy of the floodplain regulations as adopted by the Town of Huntersville North Carolina, on the ____ day of _____, 2015.

APPENDIX A: FEMA FLOODPLAIN CROSS-SECTION

Attachment A



APPENDIX B: FLUM FLOODPLAIN CROOS-SECTION



Section 2. That this Ordinance shall become effective upon approval.

APPROVED AS TO FORM:

Robert B. Blythe, Town Attorney

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Max Buchanan
Subject: Mt. Holly - Huntersville Rd @ Hambright Rd R/W Acquisition

Acquisition of right of way along Mt. Holly Huntersville Road, north and south of Hambright Road is necessary to facilitate the improvement project at Mt. Holly - Huntersville Road / Hambright Road intersection.

ACTION RECOMMENDED:

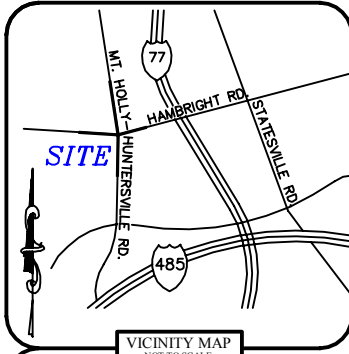
Requesting authorization to acquire, for highway right-of-way purposes, a combined 0.5 acre +/- from the two parcels located in the southwest and northwest quadrants of the intersection. (Parcels 017-032-06 & 017-401-04 respectively) for an amount \$23,563.75

FINANCIAL IMPLICATIONS:

Transportation Reserve Fund

ATTACHMENTS:

Description	Type
☐ Parcel #017-032-06 / Right of Way Exhibit	Exhibit
☐ Parcel #017-401-04 / Right of Way Exhibit	Exhibit



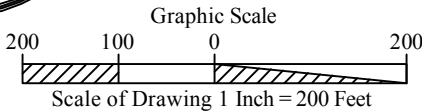
SITE

VICINITY MAP
NOT TO SCALE

I, JUSTIN R. WILLIAMS, CERTIFY THAT THIS PLAT WAS DRAWN BY ME FROM AN ACTUAL SURVEY MADE BY ME; THAT THE DEEDS AND MAPS NOTED WERE USED AS REFERENCES. THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION AS NOTED; THAT THIS PLAT WAS PREPARED FOR THE PURPOSE OF R/W ACQUISITION AND/OR EASEMENT ACQUISITION ONLY, AND IS NOT INTENDED TO BE A BOUNDARY SURVEY OF THE PARCEL SHOWN HEREON.

JUSTIN R. WILLIAMS, N.C. PLS 4942

DATE



THIS RIGHT OF WAY SURVEY CONSISTS OF TWO (2) PAGES. IT IS TO BE CONSIDERED INCOMPLETE WITHOUT THE PRESENCE OF BOTH PAGES.

PARCEL 2

017-401-04
ELAINE RENEE BOWERS,
KAREN DENISE LEWIS
BRENDA ELLEN MOORE
SUSAN ANNETTE MORETZ
10701 HAMBRIGHT RD.
HUNTERSVILLE, N.C. 28078
DB 7310, PG 160

PARCEL 1

017-032-06
ELAINE RENEE BOWERS,
KAREN DENISE LEWIS
BRENDA ELLEN MOORE
SUSAN ANNETTE MORETZ
11431 & 11702
MT. HOLLY-HUNTERSVILLE RD.
HUNTERSVILLE, N.C. 28078

NEW RIGHT OF WAY
TO BE ACQUIRED
SEE SHEET 2

AREA	SQ. FT.	ACRES
PARCEL PER DEED	937,631 ±	21.53 ±
FEE SIMPLE WITHIN APPARENT MAINTAINED R/W	20,131 ±	0.46 ±
FEE SIMPLE OUTSIDE MAINTAINED R/W	8,569 ±	0.20 ±
TOTAL FEE SIMPLE	28,700 ±	0.66 ±
TOTAL AREA REMAINING	908,931 ±	20.87 ±

RIGHT OF WAY ACQUISITION SURVEY (PARCEL 1)



Professional
Property
Surveyors, Inc.
18335 Old Statesville Road
Ste. A, Cornelius, N.C. 28031
704-765-5134 Phone/Fax
Firm License: C-3666

Property of:
Karen Denise Lewis
Brenda Ellen Moore
Elaine Renee Bowers
Susan Annette Moretz

As Recorded in:
DB 7688 PG 951; DB 7688 PG 953
DB 7688 PG 955; DB 7688 PG 957
DB 8412 PG 434; DB 8412 PG 436
DB 8412 PG 438; DB 8412 PG 440

Site Address:
11431 & 11702 Mt. Holly
Huntersville Road
Huntersville, NC 28078
Mecklenburg

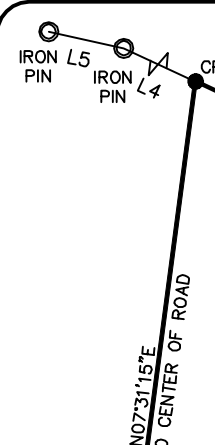
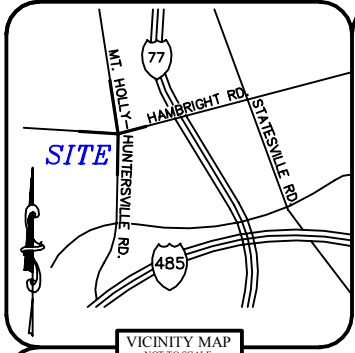
Job No.	JRW Prepared By	HAM-MTHOLLY Project Number	1"=200' Drawing Scale	017-032-06 Tax Parcel Number	TOH-01703206 Drawing File Name	1 of 2 Sheet Number	07/07/2015 Date
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017-032-11
HOWARD J. FOY JR.
11031 MT.
HOLLY-HUNTERSVILLE RD.
HUNTERSVILLE, N.C. 28078
DB 4665, PG 411

017-042-11
N.C. STATE PRISON
1100 HAMBRIGHT RD.
HUNTERSVILLE, N.C. 28078
DB (N/A), PG (N/A)

017-042-31
CHAPEL HILL
BAPTIST CHURCH
11028 MT. HOLLY-
HUNTERSVILLE RD.
HUNTERSVILLE, N.C. 28078
DB 28207, PG 4

017-042-13
CHAPEL HILL
BAPTIST CHURCH
11028 MT. HOLLY-
HUNTERSVILLE RD.
HUNTERSVILLE, N.C. 28078
DB 1967, PG 32



THIS RIGHT OF WAY SURVEY CONSISTS OF TWO (2) PAGES. IT IS TO BE CONSIDERED INCOMPLETE WITHOUT THE PRESENCE OF BOTH PAGES.



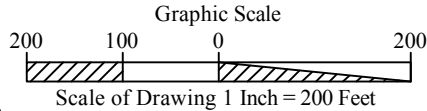
I, JUSTIN R. WILLIAMS, CERTIFY THAT THIS PLAT WAS DRAWN BY ME FROM AN ACTUAL SURVEY MADE BY ME; THAT THE DEEDS AND MAPS NOTED WERE USED AS REFERENCES. THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION AS NOTED; THAT THIS PLAT WAS PREPARED FOR THE PURPOSE OF R/W ACQUISITION AND/OR EASEMENT ACQUISITION ONLY, AND IS NOT INTENDED TO BE A BOUNDARY SURVEY OF THE PARCEL SHOWN HEREON.

JUSTIN R. WILLIAMS, N.C. PLS 4942 DATE

AREA	SQ. FT.	ACRES
PARCEL PER DEED	1,083,713 ±	24.88 ±
FEE SIMPLE WITHIN APPARENT MAINTINNED R/W	21,634 ±	0.50 ±
FEE SIMPLE OUTSIDE MAINTAINED R/W	10,282 ±	0.24 ±
TOTAL FEE SIMPLE	31,916 ±	0.74 ±
TOTAL AREA REMAINING	1,051,797 ±	24.14 ±

NORTH PER NCGS(NAD83/2011)

LINE TABLE		
LINE	LENGTH	BEARING
L1	88.86	N67°17'14"W
L2	11.06	N67°18'49"W
L3	96.24	N64°08'49"W
L4	688.98	S65°11'18"E
L5	80.18	S77°35'37"E
L6	43.89	N06°18'51"E
L7	37.05	N11°55'55"W



PARCEL 2
017-401-04
ELAINE RENEE BOWERS
KAREN DENISE LEWIS
BRENDA ELLEN MOORE
SUSAN ANNETTE MORETZ
10701 HAMBRIGHT RD.
HUNTERSVILLE, N.C. 28078
DB 7310, PG 160

**NEW RIGHT OF WAY
TO BE ACQUIRED
SEE SHEET 2**



DUKE POWER R/W
(200FT. R/W PER MECKLENBURG COUNTY GIS)

HAMBRIGHT RD.
(APPARENT 60FT. MAINTAINED R/W)

PARCEL 1


017-032-06
ELAINE RENEE BOWERS,
KAREN DENISE LEWIS
BRENDA ELLEN MOORE
SUSAN ANNETTE MORETZ
11431 & 11702 MT. HOLLY-HUNTERSVILLE RD.
HUNTERSVILLE, N.C. 28078

PROJECT BENCH MARK
REBAR & CAP
ELEV: 824.16'

017-042-12
UNITED OIL OF THE
CAROLINAS INC.
11116 MT. HOLLY-
HUNTERSVILLE RD.
HUNTERSVILLE, N.C. 28078
DB 10633, PG 375

017-042-11
N.C. STATE PRISON
11100 HAMBRIGHT RD.
HUNTERSVILLE, N.C. 28078
DB (N/A), PG (N/A)

RIGHT OF WAY ACQUISITION SURVEY (PARCEL 2)

 Professional Property Surveyors, Inc. 18335 Old Statesville Road Ste. A, Cornelius, N.C. 28031 704-765-5134 Phone/Fax Firm License: C-3666		Property of: Karen Denise Lewis Brenda Ellen Moore Elaine Renee Bowers Susan Annette Moretz		As Recorded in: Deed Book 7310 Page 160		Site Address: 10701 Mt. Holly Huntersville Road Huntersville, NC 28078 Mecklenburg	
<div>Job No.</div>	<div>JRW Prepared By</div>	<div>HAM-MTHOLLY Project Number</div>	<div>1"=200' Drawing Scale</div>	<div>017-401-04 Tax Parcel Number</div>	<div>TOH-01740104 Drawing File Name</div>	<div>1 of 2 Sheet Number</div>	<div>07/07/2015 Date</div>

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Max Buchanan
Subject: STV Design Contract - US 21 / Gilead Road Project

With the Planning & Permitting phase of the US21/Gilead Road project delivery nearing completion, the engineering design phase scope has been finalized and negotiated to facilitate moving forward with project once permit document has been approved.

ACTION RECOMMENDED:

Requesting review, approval, and execution of the professional design services contract (Engineering Design) with STV, Inc. in the amount of \$743,715.90 with additional contingencies of \$19,019.90 for Landscaping Design and \$37,185.80 for utility locates and other non-scoped items for a grand total of \$799,921.60

FINANCIAL IMPLICATIONS:

2013 Bond Funds

ATTACHMENTS:

Description	Type
❑ Professional Services Agreement - STV	Exhibit
❑ STV - Scope of Work US21/Gilead	Exhibit
❑ STV - Fee Summary	Exhibit

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 201____, by and between **STV Engineers, Inc.**, a New York corporation, with a business address at 900 West Trade Street, Suite 715, Charlotte, NC 28202, (“STV”); and Town of Huntersville with a business address at 105 Gilead Road, Town Center – 3rd Floor, Huntersville, NC 28078, (“Client”). STV and Client are sometimes referred to individually as a “Party” and together as the “Parties.”

WITNESSETH

WHEREAS, Client, desires to retain STV to render and perform certain professional services relating to Client’s US 21/Gilead Road Intersection Project – Design Phase (the “Project”); and

WHEREAS, STV is willing to render such services in accordance with the terms and conditions in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the receipt and adequacy of which is hereby acknowledged by the Parties, the Parties do hereby agree as follows:

ARTICLE 1 – STV’S RESPONSIBILITIES

- A. STV agrees to perform the professional services (the “Services”) described in detail in Exhibit “A” attached hereto and incorporated herein (the “Scope of Services”). The schedule for performance of the Services shall be as set forth in the Scope of Services.
- B. If required for the Services, STV shall secure and maintain the licenses, professional registrations, permits and other authorizations necessary for STV to perform the Services identified herein. It is expressly understood that Client is responsible for any and all other permits, licenses, authorizations, and bonds, including related fees and any administrative fees or any taxes required by any federal, state, or local government law.
- C. STV reserves the right to assign this Agreement to its affiliates, subsidiaries, or successors as necessary in order to effectively carry out and complete the Services specified by this Agreement.
- D. STV will perform its obligations in a manner consistent with that level of skill and care exercised by members of the same field currently practicing under similar conditions and circumstances at the time such Services are rendered (the “Standard of Care”). Estimates of cost, approvals, recommendations, opinions and decisions by STV are made on the basis of STV’s experience, qualifications and professional judgment and are not to be construed as warranties or guarantees.

- E. Consistent with the Standard of Care, the Services shall conform to applicable laws, ordinances, codes, rules, regulations and other legal requirements at the time Services are rendered.
- F. STV shall not be required to sign any documents, no matter by whom requested, that would result in STV having to certify, guaranty, or warrant the existence of conditions whose existence STV cannot ascertain. Any certification provided by STV shall be so provided based on STV's knowledge, information and belief subject to the standard of care set forth above, and shall be given in STV's professional opinion consistent with the same. STV shall be compensated for any work necessary to verify project compliance with regulatory standards for purposes of such certification.
- G. STV's opinions of probable construction cost provided pursuant to this Agreement are to be made on the basis of STV's experience and qualifications and, consistent with the Standard of Care, represent STV's judgment as a professional generally familiar with the industry. However, since STV has no control over the cost of labor, materials, equipment, or services furnished by others, or over the methods of determining prices, or over competitive bidding or market conditions, STV cannot and does not guarantee, and shall therefore have no liability in the event that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by STV.
- H. During the construction phase of the Project, STV shall not supervise, direct, or have control over a contractor's work, nor shall STV have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by contractor, for safety precautions and programs incident to the contractor's work in progress, nor for any failure of contractor to comply with laws and regulations applicable to contractor's furnishing and performing the work.
- I. STV neither guarantees the performance of any construction contractor nor assumes responsibility for any contractor's failure to furnish and perform the work in accordance with the contract documents.
- J. STV shall not be responsible for the acts or omissions of any contractor(s), subcontractor or supplier, or of any of the contractor's agents or employees or any other persons (except STV's own subcontractors and employees) at the Project site or otherwise furnishing or performing any of the contractor's work; or for any decision made on interpretations or clarifications of the contract documents given by Client.

ARTICLE 2 – CLIENT'S RESPONSIBILITIES

- A. Immediately upon execution of this Agreement, Client shall provide available information to STV regarding the requirements for the Project. STV shall be entitled to rely upon the accuracy and completeness of all requirements, programs, instructions, reports, data and other information furnished by Client pursuant to this Agreement. When requested by STV, Client will arrange access to and make provisions for STV to enter upon public and private property as required for STV to perform Services under this Agreement

- B. Upon the request of STV, Client shall designate a representative authorized to act on its behalf with respect to the Project. Client, or such authorized representative, shall render decisions in a timely manner pertaining to documents submitted by STV in order to avoid unreasonable delay in the orderly and sequential progress of STV's Services.
- C. Client is alone responsible for payment to STV under this Agreement and such duty to pay STV shall not be subject to any third party agreement.

ARTICLE 3 – CHANGES AND ADDITIONAL SERVICES

Client may make changes within the Scope of Services to be performed by STV. All changes to this Agreement must be in writing and signed by both Parties. If such changes result in an increase in the STV's costs and/or increase the time required for the nature of performance of the Agreement ("Additional Services"), STV shall so notify Client and an equitable adjustment shall be made and the Agreement shall be changed in writing through a change order signed by the Client and STV. Client expressly agrees STV shall have no obligation to proceed with any Additional Services unless and until both Parties have signed the required change order document. STV shall not be in default hereunder for any refusal to proceed with any Additional Services.

ARTICLE 4 – FORCE MAJEURE

Neither Party will be responsible for delays attributable to acts of God, acts of third parties, intervention of public authorities, weather, work stoppages, changes in applicable laws or regulations after the date of commencement of performance hereunder and any other acts or omissions or events which are beyond the reasonable control of a Party. Costs and schedule commitments shall be subject to renegotiations for unreasonable delays caused by Client's or third party's failure to provide specified facilities or information. The time for performance of this Agreement shall be extended proportionately in the event STV is delayed in the performance of this Agreement by such causes and additional compensation may be due STV in accordance with the provisions of hereof.

ARTICLE 5 – COMPENSATION

- A. STV shall be compensated and paid for all Services described herein as a lump sum fee in the amount not to exceed seven hundred ninety-nine thousand nine hundred twenty-one dollars and sixty-one cent, (\$799,921.61), to be computed in accordance with the Schedule in Exhibit B.
- B. Upon submission, not more frequently than once per month, by STV of an invoice for STV's Services, Client will, within thirty (30) calendar days, pay STV for Services performed. Time is of the essence in payment of STV's invoices, and timely payment is a material part of the consideration of this agreement between STV and Client. Invoice amounts in dispute shall not affect Client's obligation to pay remaining invoice charges.

- C. Unpaid balances shall be subject to an additional charge of one and three quarters (1.75) percent per month from the date of the invoice. In addition, STV may, after giving seven (7) days written notice to Client, suspend Services without liability until Client has paid in full all amounts due STV. Sealed plans, final documents, reports and attendance at meetings/hearings will not be provided unless payment for Services is current. If STV is performing services for the Client under multiple projects, invoice payments must be kept current on all projects for Services hereunder to continue. Client acknowledges STV's right to suspend Services and withhold plans and documents, as provided above, if payments are not current on all projects. If Services are suspended for thirty (30) days or longer, upon resuming Services STV shall be entitled to expenses incurred in the interruption and resumption of its Services. If Services are suspended for ninety (90) days or longer, STV shall be entitled to compensation for all expenses incurred during the interruption and resumption of its Services and fees for remaining Services shall be equitably adjusted. Should it become necessary to utilize legal or other resources to collect any or all monies rightfully due for Services rendered, STV shall be entitled to full reimbursement of all such costs, including reasonable attorneys' fees and costs, as part of this Agreement.

ARTICLE 6- INSURANCE/INDEMNITY

- A. STV agrees to carry the following insurance during the term of this Agreement:

1. Worker's Compensation and Employer's Liability Insurance in compliance with statutory limits.
2. Professional Errors and Omissions Insurance with limits of not less than ONE MILLION DOLLARS (1,000,000.00) combined.
3. Automobile Liability Insurance with limits of not less than ONE MILLION DOLLARS (1,000,000.00) combined single limit for all motor vehicles owned, rented or used by the STV.
4. Comprehensive General Liability, Bodily Injury and Property Damage Insurance with combined single limits of ONE MILLION DOLLARS (1,000,000.00) per occurrence and in the aggregate.
5. Certificates of insurance will be furnished upon request. If Client requires additional insurance coverage, and it is commercially available, Client agrees to reimburse STV for the expense of carrying such additional insurance.

- B. The Client and STV shall at all times indemnify and save harmless each other and their officers and employees on account of any claims, damages, losses, litigation, expenses and/or counsel fees arising out of any claims, damages, personal injuries and/or property losses sustained by or alleged to have been sustained by and person or entity, to the extent such claims, damages, losses, litigation, expenses and/or counsel fees are caused

by the negligent acts, errors or omissions of the indemnifying Party, its employees, or subcontractors.

ARTICLE 7 – LIMITATION ON LIABILITIES

- A. Notwithstanding any other provisions of this Agreement, and to the fullest extent permitted by law, neither Party shall be liable to the other for any incidental, special, indirect or other consequential damages incurred due to the fault of the other Party, regardless of the nature of the fault or whether it was committed by the Client or STV, or their employees, subconsultants, or subcontractors. Consequential damages include, without limitation, liability for loss of use of the Project or existing property, loss of profits, loss of use, loss of production, or business interruption, however the same may be caused.
- B. Client hereby agrees that, to the fullest extent permitted by law, STV's total liability to Client and any persons or entities claiming by, through, or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the Project, the Services, or this Agreement from any cause or causes including, without limitation, STV's negligence, errors, omissions, strict liability, statutory liability, indemnity obligation, breach of contract or breach of warranty shall not exceed Fifty Thousand & 00/100 Dollars (\$50,000.00) or STV's fee hereunder, whichever shall be greater.

ARTICLE 8 – OWNERSHIP OF DOCUMENTS

- A. Any reuse of documents including all drawings and specifications (whether in hard or electronic format) by Client or a third person or entity authorized by Client without written verification or adaptation by STV for the specific purpose intended will be at the Client's sole risk and without liability or legal exposure to STV; and the Client shall release, defend, indemnify, and hold harmless STV from all claims, damages, losses and expenses, including reasonable attorneys' fees, arising out of or resulting therefrom.
- B. If any information hereunder is provided in electronic format, Client recognizes that such information record on or transmitted as electronic media, including CADD or BIM documents ("Electronic Documents") are subject to undetectable alteration, either intentional or unintentional, due to, among other causes, transmission, conversion, media degradation, software error, or human alternation. Accordingly, the Electronic Documents are provided to Client for informational purpose only and not as record documents.

ARTICLE 9 - NOTICES

- A. For purposes of this Agreement, notices and all other communications provided for herein shall be in writing, addressed as provided hereinafter to the Party to whom the notice or request is given, and shall be either: (i) delivered personally; (ii) sent by United States certified mail, postage prepaid, return receipt requested; (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight; or, (iv) sent via confirmed facsimile transmission. Notice shall be deemed

given: when received if delivered personally or sent via telecopy or facsimile transmission with written confirmation of receipt; forty-eight (48) hours after deposit if sent by mail; and twenty-four (24) hours after deposit if sent by Federal Express or other nationally recognized carrier. From time to time, either Party may designate another address for all purposes of this Agreement by giving the other Party not less than ten (10) days advance notice of such change of address in accordance with the provisions hereof.

- B. The address of Client for all purposes under this Agreement and for all notices hereunder shall be:

Town of Huntersville
PO Box 664
Huntersville, NC 28078
Phone No. 704-766-2225
Fax No. 704-992-5528
Email Address: mbuchanan@huntersville.org
Attention: Max Buchanan, PE

The address of STV for all purposes under this Agreement and for all notices hereunder shall be:

STV Engineers, Inc.
900 West Trade Street, Suite 715
Charlotte, NC 28202
Phone No. 704-372-1885
Fax No. 704-372-3393
Email Address: nikki.honeycutt@stvinc.com
Attention: Nikki Honeycutt, PE

ARTICLE 10 - CONFIDENTIAL INFORMATION

In connection with the performance of this Agreement, STV may disclose to Client, through its representative, secret or confidential information consisting of heretofore unpublished technical or other data in which STV or other parties have proprietary rights, patentable as well as unpatentable. All of this information shall be considered confidential information. Client shall not, except as specifically authorized in writing by STV, disclose to any party any technical, confidential or secret information of whatever kind or nature, so long as, and to the extent that, such information remains unpublished. This obligation shall not apply to information which the Client can demonstrate was in the possession or known to it prior to the date of such disclosure as demonstrated by its records. Nor should this obligation apply to information, which Client can establish, has been properly and lawfully made available to Client from third parties who are under no obligation to maintain the confidential nature of this information. Client shall make no copies of any prints or other documents supplied by the STV, unless expressly authorized or directed to do so.

ARTICLE 11 – NO WAIVER

No failure of either Party hereto at any time to give notice of any breach by the other Party of, or to require compliance with, any condition or provision of this Agreement shall be deemed a waiver of any provisions or conditions hereof.

ARTICLE 12 – TERM & TERMINATION

The term of this Agreement shall commence as of the date and year first above written and shall continue until completion of the Services, as may be modified from time to time.

Either Party may terminate this Agreement for convenience upon thirty (30) days written notice. Notwithstanding the foregoing, either Client or STV may terminate this Agreement upon the other Party's material breach of this Agreement, provided that: (a) the nonbreaching Party sends written notice to the breaching Party describing the breach in reasonable detail; and (b) the breaching Party does not cure the breach within twenty (20) days following its receipt of such written notice. STV will be compensated for its Services rendered to the date of termination. Termination of this Agreement for any reason whatsoever shall not affect any right or obligation of any Party which is accrued or vested prior to such termination, and any provisions of this Agreement relating to any such right or obligation shall be deemed to survive the expiration or earlier termination of this Agreement.

ARTICLE 13 - SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there shall be added automatically as a part of this Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

ARTICLE 14– SURVIVAL OF PROVISIONS

Termination of this Agreement for any reason whatsoever shall not affect any right or obligation of any Party which is accrued or vested prior to such termination, and any provision of this Agreement relating to any such right or obligation shall be deemed to survive the termination of this Agreement. The indemnities, audit rights, representations, warranties, covenants, guarantees, confidentiality obligations, insurance requirements, and intellectual property rights provisions set forth herein shall survive termination or expiration of this Agreement, in addition to any other provisions which by their nature should, or by their express terms do, survive or extend beyond termination or expiration of this Agreement.

ARTICLE 15 - MODIFICATIONS

Except as otherwise provided herein, this Agreement may be altered, modified or amended only in writing and signed by both Parties.

ARTICLE 16 – GOVERNING LAW

This Agreement shall be governed in compliance with the laws of the State of North Carolina and applicable governmental rules and regulations in effect at the effective date of this Agreement.

ARTICLE 17– INTEGRATION/MERGER CLAUSE

This Agreement contains the entire and complete agreement between the Parties respecting the Project, and any agreement or representation respecting the Project of the duties of either Party in relation thereto in prior negotiations, proposals, orders, representations letter agreements, memorandum or understandings, oral or written, shall be superseded as of the date hereof.

ARTICLE 18 – BINDING EFFECT

The Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their successors and assigns.

ARTICLE 19 – THIRD PARTIES

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either STV or Client. STV's Services under this Agreement are being performed on behalf of and solely for the benefit and exclusive use of the Client for the limited purposes of this Agreement and no person or other entity shall have any claim against STV because of this Agreement. In addition, nothing herein shall be construed as creating a contractual relationship between the Client and any STV employee, representative, or consultant. The Client agrees that in the event of a dispute regarding this Agreement or the Services rendered by STV hereunder, the Client shall only seek recourse against STV and hereby expressly waives any and all right to pursue a claim against STV's individual officers, directors, or employees.

ARTICLE 20 – ASSIGNMENT

Client may not assign or transfer any of its duties, obligations, or interests in this Agreement without the prior written consent of STV.

ARTICLE 21 – HEADINGS

All section and article headings herein are for convenience of reference only and are not part of this Agreement, and no construction or inference shall be derived therefrom. Wherever required by the context, any gender or neuter shall include the other gender or neuter, the singular shall include the plural, and the plural shall include the singular. Each defined term herein shall be used in its singular or plural form whether or not so defined.

ARTICLE 22 – CONSTRUCTION

The Parties acknowledge that each Party and, if it so chooses, its counsel, have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto or to any Task Order entered into hereunder.

ARTICLE 23 – DISPUTES

STV and Client agree to negotiate in good faith to resolve any disputes or differences arising under this Agreement. Any dispute that cannot be resolved by negotiation will be submitted to mediation conducted in accordance with the current Construction Industry Mediation Rules of the American Arbitration Association or such other form of non-binding Alternative Dispute Resolution (ADR) as they may mutually agree.

STV and Client agree that, in the event their dispute resolution procedures as described above do not resolve any disagreement among them and any Party elects thereafter to institute legal proceedings, the forum for any such action relating to this Agreement shall be in the Courts located in Mecklenburg County, North Carolina, either State or Federal. STV and Client hereby irrevocably consent to the jurisdiction of such Courts and waive any defense, whether asserted by motion or pleading, that such Courts are an inconvenient or inappropriate venue.

Except to the extent that this Agreement expressly permits a Party to suspend performance, pending final resolution of a dispute, the Parties shall each proceed diligently and faithfully with performance of their respective obligations under this Agreement pending a final resolution of a dispute and failure to so proceed shall be considered a default under the terms of this Agreement.

[SIGNATURES TO THIS AGREEMENT ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement the day and year first written above.

Town of Huntersville

By: _____

Name: _____

Title: _____

STV Engineers, Inc.

By: _____

Name: _____

Title: _____

EXHIBIT A

SCOPE OF SERVICES

EXHIBIT B
COMPENSATION

SCOPE OF SERVICES FOR TIP U-5114 US 21 / GILEAD ROAD INTERSECTION IMPROVEMENTS

Located in

HUNTERSVILLE, NC

PROJECT DESCRIPTION

The Town of Huntersville desires to provide substantial improvements to the intersection of US 21 (Statesville Road) and Gilead Road. The improvements will include two new dual U-turn bulbouts and will prohibit left-hand turns at the intersection of US 21/Gilead Road. There will be new location connections at Dallas Street for the Bayshore Plaza Shopping Center and from Commerce Center Drive to Boulder Park Drive. The project will also feature accommodations for bicyclists (wide outside lanes on US 21 and dedicated bike lanes on Gilead Road) and pedestrians. Refer to the attached Detailed Study Alternative exhibit for further details. This will be considered the design phase of the project and will include: roadway design, hydraulics design, supplemental surveying, environmental permitting, landscaping, utility coordination, signal design, geotechnical recommendations, pavement markings, signage, and structural design. It should be noted that any reference to "project team" in the following scope includes Town staff, STV, subconsultants, and anyone else the Town designates. The reference of YOU indicates the Town of Huntersville, and the reference of WE/US indicates STV or its subconsultants.

A. PROJECT MANAGEMENT

- (1) Project Manual – Develop "Project Procedures" manual containing our project management tools
- (2) Progress Report and Invoices – Prepare monthly progress reports and invoices to the Town
- (3) Coordination Meetings - Monthly progress meetings with you and other pertinent team members and a bi-weekly conference call with the consultant team
- (4) Coordination with subconsultants
- (5) QA/QC Documentation – Perform regular on-going review of QA/QC activities on the project
- (6) Project Website – Maintain the project website with current project data as directed by the Town.

Assumptions/Exclusions:

NCDOT will let the project centrally. Bid phase services will be considered an additional service. These potential services include pre-bid conference, pre-construction conference, Requests for Information (RFI's), etc.

B. ROADWAY DESIGN

- (1) We will prepare roadway plans in accordance with NCDOT standard practices; and the plans will conform to NCDOT 2012 Standard Specifications, the NCDOT 2012 Standard Drawings, and the NCDOT Roadway Design Manual.
- (2) The drawings will be prepared in Microstation V8i format.
- (3) Improvements will include the following:
 - (a) U-Turn Intersection at US 21/Gilead Road whereby left turns are prohibited and motorists will be redirected to dual lane bulbouts approximately 550' – 800' from the intersection.

- The bulbouts will accommodate a passenger car on the inside lane and a SU-30 / WB-67 on the outside.
 - Dual right turn lanes will be provided from eastbound Gilead to southbound US 21.
 - A single right turn lane will be provided from northbound US 21 to eastbound Gilead Road.
 - A single right turn lane will be provided from westbound Gilead Road to northbound US 21.
 - Dual right turn lanes will be provided from southbound US 21 to westbound Gilead Road.
 - Pedestrian refuge islands will be provided at each quadrant of the intersection between the through lanes and right turn lanes.
- (b) US 21 improvements will extend from approximately 300' north of Hunters Road to approximately 750' south of existing Dallas Street.
- Planted medians will be incorporated where practicable.
 - Left turn lanes will be incorporated at Huntersville Commons Drive/Shiv Drive and the main entrance to Huntersville Square.
 - A full access, signalized intersection will be designed at Arahova Street/Compass Street.
- (c) Gilead Road improvements will extend from the radius turnout between Statesville Road and the I-77 off ramp to approximately 475' east of Commerce Center Drive.
- Planted medians will be incorporated where practicable.
 - Left-overs will be incorporated for the Huntersville Square and Bayshore Plaza.
 - A full access, signalized intersection will be designed at Commerce Center Drive.
- (d) A new location road will connect Commerce Center Drive to Boulder Park Drive and will accommodate a WB-67 vehicle. A connection will be made from this road to the Huntersville Square Shopping Center.
- (e) A new location road will connect US 21 to the Bayshore Plaza Shopping Center. Existing Dallas Street will create a T-intersection with the new road. This connection will be made just south of the bulbout on US 21.
- (4) STV will provide wall envelopes for up to 410' linear feet of retaining walls.
- (5) STV will attend the preliminary and 65% review meetings.
- (6) STV will attend up to 3 impromptu meetings during the right-of-way phase.

Assumptions/Exclusions:

Improvements to the I-77 northbound off-ramp are excluded from this scope and will be included as part of the interchange design.

Retaining walls are assumed to be segmental block walls. STV will provide a generic detail and Special Provision. The Contractor will be required to provide design of segmental block walls 4' or greater sealed by a Professional Engineer licensed in the state of North Carolina. Design of retaining walls will be considered an additional service.

Real Estate acquisition services are not included in this scope of services.

Noise wall designs are not included in this scope of services.

Bid phase services such as CE&I and record drawings are not included in this phase of work.

Advertise and award of the PROJECT is not included in this scope of services.

C. HYDRAULICS DESIGN

- (1) STV will provide drainage design to convey storm water runoff from the proposed roadway to the existing drainage outfalls. We will provide calculations in accordance with NCDOT's "Guidelines for Drainage Studies and Hydraulic Design." We will provide a Design/Calculations Notebook which will include project description, drainage area maps, hydrologic/hydraulic calculations, and site photographs with drainage field notes.
- (2) Storm systems will be designed using MicroStation V8i and Geopak Drainage. Design will include peak discharge determination using Rational Formula, gutter spread calculations, inlet capacity, pipe system design, and outfall channel design.
- (3) Deliverables:
 - (a) Drainage Design Notebook
 - (b) Plan View Construction Plans showing pipe layout
 - (c) Drainage Summary Sheet showing pipe inverts and structure type.
- (4) Outfall Analysis
 - (a) STV will provide a pre vs. post outfall at each location that storm water runoff leaves the project site. For outfalls 10 acres or less, STV will utilize the Rational Formula. For greater than 10 acres and less than 100 acres, STV will use the NRCS Method (TR-55). We do not anticipate any watersheds greater than 100 acres.
 - (b) The outfall analysis will include:
 - Calculations and recommendations will be included in the Drainage Design Notebook
- (5) Erosion Control
 - (a) STV will prepare erosion control plans in accordance with North Carolina's "Erosion and Sediment Control Planning and Design Manual." We anticipate preparing a two-phase erosion control plan.
 - (b) Erosion Control will include:
 - Calculations will be included in the Drainage Design Notebook

Assumptions/Exclusions:

No special structure designs are included.

No pipe profiles are included.

No FEMA/County Floodplain Permits. If Conditional Letters of Map Revision (CLOMRs) or Letters of Map Revision (LOMRs) are necessary, they will be negotiated as a supplemental.

No pond design or storm water management plan.

No downstream improvement design.

We assume the Erosion Control will be reviewed and approved by NCDOT Roadside Environmental; therefore, no permitting fees have been included.

D. SUPPLEMENTAL SURVEY

- (1) Horizontal and vertical survey extending from approximately 150' north of Huntersville Commons Drive to approximately 500' north of Hunters Road. Utilities will be located horizontally (Level B and C). See attached proposal.
- (2) Supplemental survey will be provided on an as-needed basis. No supplemental survey will be provided unless written approval is provided by the client.
- (3) Vacuum excavations will be charged on a per each basis.

Assumptions/Exclusions:

Exhibits, plats, and right of way and construction staking are not included.

E. ENVIRONMENTAL PERMITTING

- (1) Prepare and submit a Pre-Construction Notification (PCN), i.e., permit application, to the USACE, pursuant to the Nationwide Permit (NWP) Program. It's anticipated that the project will be permitted pursuant to NWP #14 for Linear Transportation Projects. Authorization under NWP #14 also requires a submittal to the DWR for written authorization. Based on the conceptual design, anticipated impacts to be described in the permit application would include stream impacts of less than 150 linear feet at each potential stream crossing. The PCN will include documentation of the waters of the U.S. delineation and figures showing the extent of delineated jurisdictional areas overlain by the proposed construction limits. An essential element of the PCN will be a review of strategies to avoid and minimize project impacts to water of the U.S. Other important elements of the application would be the need to address the potential for the project to impact federally protected plants and animals and/or significant cultural resources; compensatory mitigation for project impacts to regulated waters of the U.S.; and stormwater management. Due to the minimal impacts proposed, it is understood that the avoidance and impact minimization efforts during the planning phase will satisfy the compensatory mitigation needs for the project.
- (2) Environmental deliverables:
 - (a) A letter report and associated figures depicting the findings of jurisdictional waters determination
 - (b) An overview of waters of the U.S./wetlands permitting requirements will be included.
 - (c) A letter confirming the results of the field meeting with Mecklenburg County in regards to the PCCO.

Assumptions/Exclusions:

In the event that stream or wetland mitigation is required, then it is anticipated that mitigation credits would be purchased by the Town from a USACE-approved mitigation bank.

Costs associated with mitigation payment are not included in this scope/fee estimate.

F. LANDSCAPING

(1) Project Management

- (a) Attend four design team meetings.
- (b) Attend two meetings with Town staff.
- (c) Team coordination for file sharing, drawing protocol, and revisions.

(2) We will develop landscape plans for approximately 2000 linear feet of center median planting.

- (a) Prepare an assumptions and design criteria memo to guide the streetscape design. This includes the site triangles, clear zones, and planting criteria.
- (b) Landscape layout, including materials and quantities.
- (c) Planting details and plant schedule.
- (d) Prepare a cost estimate for the landscape improvements with a 10% contingency.
- (e) Coordination with irrigation sub-consultant

(3) We will provide construction documents for an automatic irrigation system for approximately 2000 linear feet of center median planting.

- (a) Documents to be provided are plans, details, and specifications and will be issued at the construction document level.
- (b) Our design assumes a new potable water connection for the water supply and a new dedicated electrical connection for the controls.

Assumptions/Exclusions:

Lighting, monument, and decorative signage design is not included in this scope of services.

Water line and electrical connection designs for the irrigation to be provided as a supplemental.

G. UTILITY COORDINATION

(1) Utility Analysis

- (a) Furnish each owner representative with a copy of project plans for their use in preparing relocation plans and agreements.
- (b) Determine the relocation lengths and location for public water and sewer lines, if any.
- (c) Determine if additional right of way and/or a PUE are required.
- (d) Determine if SUE is required.

(2) Utility Owner Concurrence

- (a) Develop a schedule for utility design and relocation.
- (b) Determine who is financially responsible for the relocation of utilities that are in conflict.
- (c) Verify that PUE's and impacts have been determined.

(3) Utilities By Others

- (a) Prepare UBO plans by transcribing markups provided by the utility owners.
- (4) Utility Authorizations
 - (a) Submit Utility Relocation Agreements executed by the utility company.
 - (b) Provide appropriate encroachment agreement executed by the utility company.

Assumptions/Exclusions:

Water and sewer line designs are not included and will be negotiated as a supplemental if necessary.

H. WATER AND SEWER PRELIMINARY EVALUATION AND DESIGN

The US 21 / Gilead Road intersection area has significant existing water and sewer utilities, including 24" and 10" water main on Gilead Road east of the intersection, 24" and 10" water main on US 21 north of the intersection, 16" and 8" water main on Gilead Road south of the intersection, 12" water main on Gilead Road west of the intersection; and there are also a significant amount of 8" and 12" sewer mains in the project area. Depending on the existing pipe material and configuration, some of the large size pipe (16" and 24") will be costly to relocate. STV will coordinate among disciplines to evaluate the utility impacts and determine whether to implement a design modification to avoid major water and sewer utility impacts or relocation of existing water and sewer utilities, based on constructability, cost, schedule, etc.

- (1) Evaluation of existing water and sewer utilities
 - (d) Acquire as-builts info from Charlotte Water
 - (e) Compare as-builts info with SUE/Survey
 - (f) Site visit to verify as-builts
 - (g) Order soft digs to verify pipe material, depth, condition, etc. at critical areas
- (2) Project meetings and coordination during design
 - (c) Meetings with different disciplines to evaluate potential impacts
 - (d) Alternative analysis to determine either design modification to avoid major water and sewer utility impact or conceptual design of water and sewer relocation
- (3) Project meetings and coordination with Charlotte Water
 - (a) Meetings with Charlotte Water to discuss standards and specifications to be used in the project; future expansion and demand to determine pipe sizes; discuss potential major impacts and retain preliminary approval on conceptual layout

Assumptions/Exclusions:

The actual cost for the soft digs is considered an additional service and will be billed on a per each basis.

Water and sewer line designs are not included and will be negotiated as a supplement if it is determined impact on existing water and sewer utilities cannot be avoided.

It is assumed that the water and sewer relocation plan will be reviewed and approved by Charlotte Water.

I. SIGNAL DESIGN

- (1) STV will prepare traffic signal plans utilizing metal strain poles per the Detailed Study Alternative to include the following intersections:
 - (a) Gilead Road and US 21 (Statesville Road)
 - (b) Gilead Road and Commerce Centre Drive
 - (c) US 21 (Statesville Road) and South U-Turn
 - (d) US 21 (Statesville Road) and North U-Turn
 - (e) US 21 (Statesville Road) and Compass Drive/Arahova Drive
- (2) The traffic signal plans for the above intersections will include at a minimum, equipment placement, general and intersection specific notes, phasing diagrams, color sequence chart, signal timings, signal face identification, stop bar and pole locations and wiring diagrams.
- (3) The traffic signal plans will be designed in compliance with the NCDOT Traffic Management and Signal Systems Unit Design Manual, the National Electric Safety Code, the 2009 Manual on Uniform Traffic Control Devices, the 2012 NCDOT Specifications and Standard Drawings and any Town of Huntersville or NCDOT supplemental specifications. The latest edition of each design manual or guide will be used if these are not the most current.
- (4) STV will coordinate and attend one (1) scoping meeting with the Town of Huntersville and NCDOT staff to discuss each of the signals, including but not limited to configurations, timing and phasing plans, interconnectivity and coordination, pedestrian and bicycle accommodations, etc.
- (5) STV will coordinate the signal design and review with the Town of Huntersville and NCDOT and obtain approvals. Signal plans, signed and sealed by a North Carolina Registered Professional Engineer, will be submitted with updated quantities.

Assumptions/Exclusions:

Mast arms will be considered an additional service.

Foundation design shall be provided by the Contractor.

J. GEOTECHNICAL

Geotechnical services will be based on the "Guidelines and Procedures Manual for Subsurface Investigations" as established by NCDOT and revised August 2004.

- (1) Coordination with team, Town of Huntersville, and property owners to gain access to test locations.
- (2) Coordinate and perform clearing of small trees and brush to provide drill rig access in areas where borings are to be performed in undeveloped areas (new roadway alignments).
- (3) Perform site visits to observe site surface conditions, mark proposed boring locations, coordinate field activities and traffic control, measure stabilized groundwater levels and measure boring surface elevations.
- (4) Contact North Carolina 811 to mark the locations of existing underground utilities in the proposed exploration areas.
- (5) Mobilize a power drilling rig mounted on a truck or an all-terrain vehicle and crew to the site.

- (6) Traffic control including signs, cones and flagmen will be provided by a subcontractor (Traffic Control Safety Services) while working within the roadway and along the shoulders of existing roadways.
- (7) Drill soil test borings to depths of up to 20 feet below existing grades at a frequency of approximately 200 feet along new roadway areas. Soil test borings will be performed in accordance with ASTM D 1586. The following number of soil test borings is proposed for the project alignments:

Roadway Alignment	Number of Soil Test Borings
New Roadway (2 locations)	10
Statesville Road (Hwy 21)	0
Gilead Road	0
I-77 Ramp	0

- (8) Asphalt cores will be advanced at a minimum of twenty (20) locations along the existing alignment to determine existing pavement thicknesses. The existing Aggregate Base Course (ABC) and subgrade soils at the core locations will be tested using the Kessler Dynamic Cone Penetrometer (DCP) to estimate in-situ California Bearing Ratio (CBR) values for pavement overlay design.
- (9) Backfill the boreholes with soil cuttings, install a hole closure device near the ground surface in each borehole, backfill with soil cuttings to the ground surface, and patch the existing pavement with asphalt cold patch.
- (10) Perform laboratory testing on samples collected from representative strata consisting of Atterberg limits, gradation and moisture content. Representative bulk samples will be obtained of subgrade soils to perform testing to evaluate their suitability for pavement subgrade support. Laboratory testing of the bulk samples will include natural moisture contents, Atterberg limits, grain size distribution, standard Proctor and soaked CBR tests on recompacted samples.
- (11) Perform pavement designs for full depth widening and overlays.
- (12) Prepare a NCDOT Roadway Report including boring logs, profiles, site photographs, laboratory testing results, recommendations and notes, pavement thickness design and applicable supportive documentation. The report will be signed and sealed by a professional engineer specializing in geotechnical engineering.

Assumptions/Exclusions:

*Asphalt coring must be performed using lane closures at night under traffic control.
Soil test borings may be performed during normal business hours.*

Underground utilities such as water, sewer and fiber optic lines are anticipated as well as overhead power and telephone lines along the existing roadways. S&ME safety protocols do not allow the mast of the drill rig to be raised within 20 feet of an overhead power line. Borings will be offset accordingly.

Boring locations will be marked in the field using Global Positioning System (GPS) equipment.

Direct measurement of shear wave velocities of the subsurface materials at the site via geophysical methods, such as surface wave methods (e.g., Multi-Channel Analysis of Surface Waves, Microtremor Measurements, etc.) is excluded.

The scope of services does not include the design of retaining walls.

Construction-phase services are excluded. The monitoring of construction or testing of construction materials is beyond the proposed scope of geotechnical services.

K. PAVEMENT MARKINGS/SIGNING

- (1) Pavement markings and signing will be designed in accordance with the 2008 Manual on Uniform Traffic Control Devices (MUTCD).
- (2) STV will provide pavement marking plans for approximately 1.5 miles of roadway based on NCDOT standards.
- (3) STV will provide quantity take-offs to be compiled in an Engineer's estimate.
- (4) STV will provide ground mounted signing plans for approximately 1.5 miles of roadway based on NCDOT standards.

Assumptions/Exclusions:

We anticipate all overhead signs, interchange signage, and pavement markings for the I-77 / Gilead Road interchange will be handled by the interchange design team.

L. STRUCTURAL DESIGN

- (1) Design the extension to one side of a double 5'x7' reinforced concrete box culvert to NCDOT Structure Standards and AASHTO Standard Specifications.
- (2) Plans will be in Microstation V8i format.

Assumptions/Exclusions:

It is assumed the structural condition of the existing box culvert is acceptable. Design of a replacement box culvert, if needed, would be considered an additional service. Staged construction is not anticipated and is not included in this scope of work. It is assumed that the culvert extension will not include any kinks.

M. TRAFFIC CONTROL

Item excluded.

Assumptions/Exclusions:

It is anticipated that the I-77 interchange project will complete the traffic control plans for both the intersection and interchange improvements as both projects will be let together.

N. TECHNICAL SPECIFICATIONS, QUANTITIES, COST ESTIMATE

- (1) Design will conform to the following:
 - (a) Town of Huntersville's Standards
 - (b) NCDOT 2012 Standard Specifications
 - (c) NCDOT 2012 Roadway Standard Drawings
 - (d) NCDOT Roadway Design Manual
 - (e) 2011 AASHTO's A Policy on Geometric Design of Highways and Streets (Green Book)
 - (f) 2008 Manual on Uniform Traffic Control Devices (MUTCD)

(g) NCDOT's "Guidelines for Drainage Studies and Hydraulic Design"

(2) Engineer's Cost Estimate will be submitted at each of the following submittals:

- (a) Right of Way Plans
- (b) Final Plans
- (c) Sealed Plans

O. REGULATORY REVIEWS AND PERMITS

<u>Agency</u>	<u>Type of Review/Permit</u>
US Army Corps of Engineers	JD & Nationwide 401/404 Permit
NCDOT – Central (Raleigh), Division 10, & District 2	Discipline Reviews – Roadway, Hydraulics, Geotechnical, Signals, WZTC
Roadside Environmental Unit	Erosion Control

K. ITEMS TO BE PROVIDED BY THE CLIENT:

The Town will provide, or arrange for others to provide, the following items for the PROJECT. We will use and rely upon the accuracy of this information as we perform the SERVICES described herein.

- (1) Complete information concerning your objectives, requirements, and constraints relative to the PROJECT.
- (2) All available information pertinent to the SERVICES to be provided including site drawings locating proposed roadways, previous studies, reports, maps, rezoning documents, drawings, correspondence with regulatory agencies, traffic studies, and previous surveys.
- (3) Designation of the individual who has: (1) the authority to act on your behalf with respect to the SERVICES we are providing, and; (2) the responsibility of coordinating the activities of any other entities involved with the PROJECT.

P. DELIVERABLES:

- (1) A design schedule in Microsoft project
- (2) Design criteria
- (3) Plans – We will prepare plans in accordance with NCDOT's "Guidelines for Roadway Design Activities" for 5 submittals:
 - (a) Preliminary (25%)
 - (b) Pre Right-of-Way (65%)
 - (c) Right of Way
 - (d) Final (90%)
 - (e) Sealed (100%)
- (4) Special Provisions (*We assume NCDOT will prepare the up-front documents for the Bid Package.*)

(5) Quantities

(6) Engineer's Estimate

Submittals will be sent to NCDOT Central Roadway Design Unit for distribution to the different disciplines within Central, to the Division, and to the District. RDU will collect all comments onto one plan set and will mitigate any contradictory comments. Huntersville will concurrently review the plans.

All deliverables will also be provided electronically via the project website or as directed by the Town.

STIP# U-5114
US 21 / GILEAD RD
SCALE 1" = 100'
DATE: 05-22-2015

PRELIMINARY
SUBJECT TO CHANGE

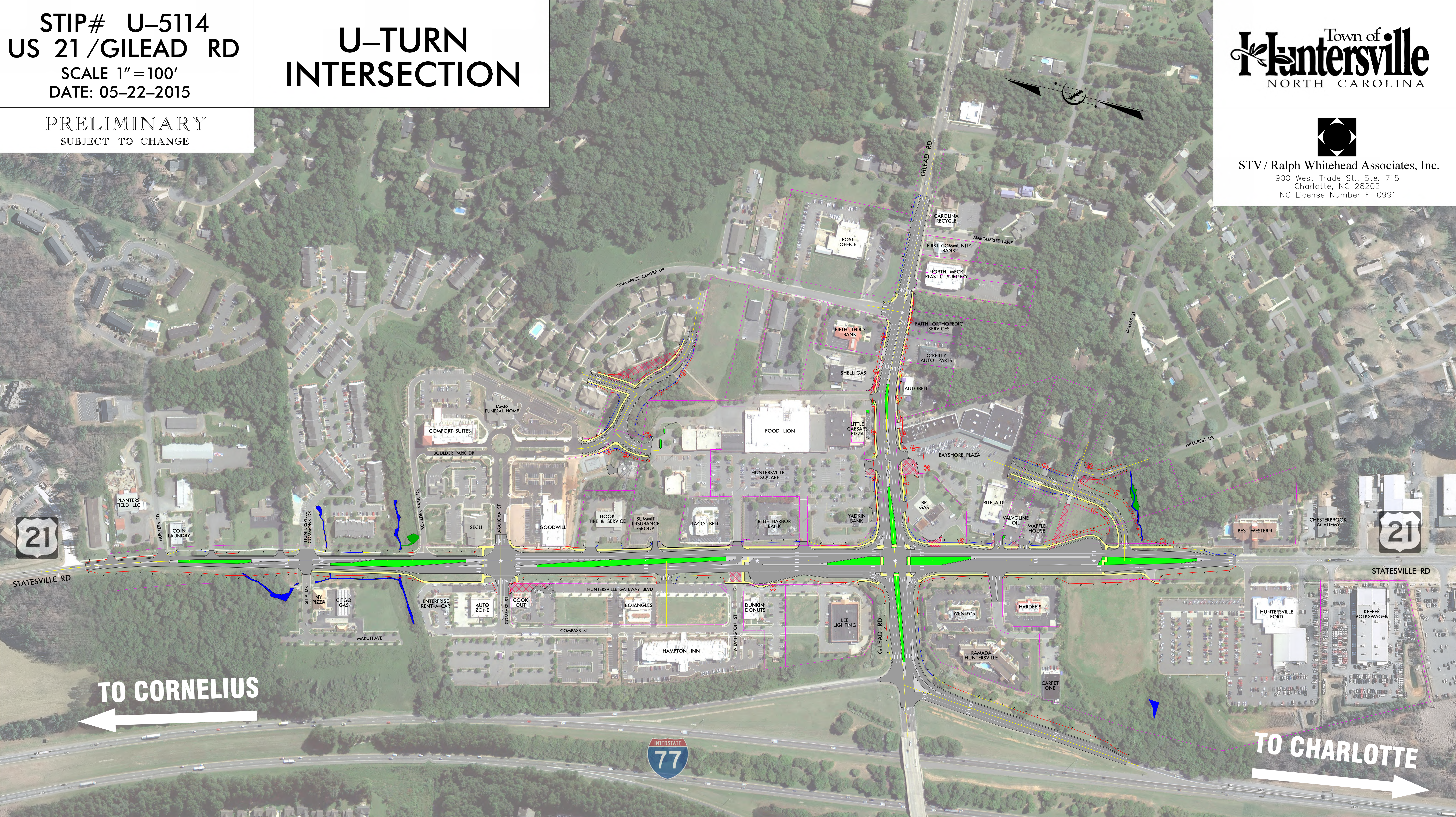
U-TURN INTERSECTION



Town of
Huntersville
NORTH CAROLINA



STV / Ralph Whitehead Associates, Inc.
900 West Trade St., Ste. 715
Charlotte, NC 28202
NC License Number F-0991





ESTIMATE OF PROFESSIONAL SERVICES SUMMARY PAGE

STV Proposal or Job Number: 0050058

Client Job Number: U-5114

Project Description/Location: US21/Gilead Road Intersection Improvement Project - DESIGN PHASE

Client: Town of Huntersville

Client Project Manager: Max Buchanan

Item	wksh	Hours	Budgeted Costs	Budgeted Effort	Other Dir. Costs	Subconsult.	Grand Total
Project Management	A	460	\$ 81,400.00	\$ 81,400.00	\$ 476.00	\$ -	\$ 81,876.00
Roadway Design	B	1,988	240,720.00	240,720.00	13,665.00	-	254,385.00
Hydraulics Design	C	893	120,080.00	120,080.00	9,133.00	-	129,213.00
Supplemental Survey	D	0	-	-	-	13,475.00	13,475.00
Environmental Permitting	E	186	21,740.00	21,740.00	768.50	-	22,508.50
Landscaping *See below.*	F						
Utility Coordination	G	210	6,680.00	6,680.00	393.00	26,862.00	33,935.00
Water and Sewer Preliminary Evaluation	H	68	10,020.00	10,020.00	293.00	-	10,313.00
Signal Design	I	536	63,265.00	63,265.00	113.90	-	63,378.90
Geotechnical	J	440	4,400.00	4,400.00	25,970.00	53,240.00	83,610.00
Pavement Markings/Signing	K	0	28,960.00	28,960.00	120.00	-	29,080.00
Structure Design	L	0	21,805.00	21,805.00	136.50	-	21,941.50
TOTALS >	4,781		\$ 577,265.00	\$ 577,265.00	\$ 50,932.40	\$ 93,577.00	\$ 743,715.90

CONTINGENCY ITEMS

Landscaping	F	146	-	-	253.90	18,766.00	19,019.90
General (5%)							37,185.80

GRAND TOTAL \$ 799,921.60

Additional Per Each Items: Soft Digs \$600 Each

Nikki Honeycutt, PE
Project Manager, STV Engineers, Inc.

I:\Projects\2516417\2516417_000140_Project Management\408_Estimates\DESIGN PHASE\Fee-21Gilead_DESIGN_MASTER_94359674.xlsx\SUMMARY

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Janet Pierson, Town Clerk
Subject: Approval of Minutes - July 20 Pre-meeting

Consider approving the minutes of the July 20, 2015 Town Board Pre-meeting.

ACTION RECOMMENDED:

Approve Minutes.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

Description	Type
 Draft Minutes	Backup Material

**HUNTERSVILLE BOARD OF COMMISSIONERS
PRE-MEETING MINUTES**

**July 20, 2015
5:45 p.m. – Town Hall**

GOVERNING BODY MEMBERS PRESENT: Mayor Jill Swain; Commissioners Melinda Bales, Ron Julian, Rob Kidwell, Sarah McAulay, Jeff Neely and Danny Phillips.

STAFF PRESENT: Town Manager Greg Ferguson, Assistant Town Manager Gerry Vincent, Finance Director Janet Stoner, Assistant to the Manager Bobby Williams, Public Works Director/Town Engineer Max Buchanan, Police Chief Cleveland Spruill, Town Attorney Bob Blythe, Planning Director Jack Simoneau, Fire Chief Larry Irvin, Town Clerk Janet Pierson.

Commissioner Bales made a motion to go into closed session for property acquisition. Commissioner Julian seconded motion.

Upon return from closed session, there being no further business, the Pre-meeting was adjourned.

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Janet Pierson, Town Clerk
Subject: Approval of Minutes - July 20 Regular Meeting

Consider approving the minutes of the July 20, 2015 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve Minutes.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

Description	Type
 Draft Minutes	Backup Material

**TOWN OF HUNTERSVILLE
REGULAR TOWN BOARD MEETING
MINUTES**

**July 20, 2015
6:30 p.m. – Town Hall**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall at 6:30 p.m. on July 20, 2015.

GOVERNING BODY MEMBERS PRESENT: Mayor Jill Swain; Commissioners Melinda Bales, Ron Julian, Rob Kidwell, Sarah McAulay, Jeff Neely and Danny Phillips.

Mayor Swain called for a moment of silence.

Mayor Swain led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS

Mayor Swain

- The next meeting of Huntersville Connection is tomorrow.
- MTC will not meet this month.
- Commended Parks & Recreation for 20th Anniversary Celebration.

Commissioner Bales

- Commended Parks & Recreation for 20th Anniversary Celebration.
- The Lake Norman Transportation Commission did not meet in July.
- The Lake Norman Education Collaborative is kicking off a new Partners in Education program, partnering businesses with local schools.

Mayor Swain said we have a Huntersville child who needs a bone marrow match. You're involvement with the businesses and kids reminded me and so I'm going to try to set up a Be the Match locally and bring them here.

Commissioner Julian

- The economic development plan is going great. There was another major announcement last week – Nutec is going to build a new manufacturing plant on Mt. Holly-Huntersville Road.

Commissioner Kidwell

- The next meeting of the Olde Huntersville Historic Society is August 5. This month Virginia Cornue will be the guest speaker.

Commissioner McAulay

- The Charlotte Regional Transportation Planning Organization met last Wednesday. We are still in the 30-day comment period on the 2015-2025 Transportation Improvement Program. There were about 19 citizens, elected officials and interested parties that came down and gave their verbal comments at the meeting, mostly against the managed lanes and made alternate

suggestions. More than 250 e-mails have been received during the comment period and those comments are being analyzed. The comment period is still open.

Commissioner Neely

- The Lake Norman Chamber of Commerce will host its August Power Luncheon at the River Run Country Club in Davidson on August 20. On September 17, the Lake Norman Chamber will host its Diversity Luncheon.
- The Visit Lake Norman Board of Directors, I was on the Budget Committee last Tuesday as we looked at the budget that's going to be presented and voted on at the next meeting. There was discussion on the future of Visit Lake Norman and how advertising and marketing has changed over the years and is dramatically changing from hand-outs at grocery stores and having a reception center where you look at a wall of all kinds of hand-outs to having over a million hits on the website last year and so our conversation centered on how are we going to change and budget ourselves in the years to come in spending more money on social media and spending a lot more money in reaching out to people visiting the Lake Norman area through social media and through the website and follow-up. The big group that really benefits from any printed material surprisingly is realtors as they are trying to draw people into the area to buy, so they will continue to have an emphasis on that, but social media will really drive Visit Lake Norman in the future. July 17-19 Visit Lake Norman hosted the USTA North Carolina Junior Tennis State Championships. It was the largest Junior Tennis Tournament in USTA's North Carolina history. Originally they were planning on about 400 participants. The number exceeded over 800 participants. The nice thing for us they competed at six different venues but more importantly there were four hotels that were designated as hotels that you should stay at if you were attending these tournaments. Three of the four were hotels in Huntersville. All four of the hotels were sold out. Visit Lake Norman will host Top Gun Baseball Summer National Championships July 24-26. Seventy-nine youth baseball teams from five states have registered. Bradford Park will host those groups. Top Gun Softball Summer World Series was held on July 10-12. Forty-four youth softball teams from five states competed in all of our athletic complexes around.

Commissioner Phillips

- Encouraged people to shop local.
- The Town of Huntersville received a grant from the Arts & Science Council for the Hello Huntersville festival.
- Encouraged people to attend National Night Out at Northcross Shopping Center on August 4.

Mayor Swain said the Pan American games are happening in Toronto right now. We have Emily Schild who is a gymnast who lives in Wynfield who is participating. We also have Ryan Hawkins and Nick Thoman who train at HFFA participating.

Commissioner Neely said traveling through the business park last Saturday and then again traveling through the business park again today, I wondered if you could enlighten us, are there any plans for any studies on putting a traffic light at the back of the business park on Mt. Holly-Huntersville Road. My biggest concern is as more and more businesses moving in, apartments moving in, we have more businesses coming in, and at some point in the near future we will be doing work on Gilead and US 21, so I think it's appropriate that we look at is a light going to be there and where are we in that process.

Max Buchanan, Public Works Director/Town Engineer, said as we all know the traffic signal has a warranting process. I'll remind the Board that you need to meet the volume 8 hours out of the day and I think the last volumes that we counted in 2014 were about 5 hours. There's three locations that we are kind of keeping an eye on and that's one of them and actually both ends of Verhoeff.

Commissioner Phillips said Gilead Road where the pipe was replaced – is that going to be restriped.

Mr. Buchanan said we have forwarded that to NCDOT. We will follow-up with them.

Commissioner Phillips said I'm starting to have a lot of people complaining about the lack of tree trimming. Is there some way we could publish our policy on it, because I think a lot of them now it's the planting strip in between the sidewalk and the street and it seems to be confusion of who is responsible.

Mr. Buchanan said I think that's clearly defined in our ordinances that the maintenance of those trees is the responsibility of the adjacent property owner or the HOA, depending on the covenants. I think we have detail on our website for that minimum tree trimming for those trees. A lot of times that trimming doesn't accommodate the canopy over the street for garbage truck conflict and those types of things. In those cases we'll typically let a clearing contract in the fall of the year to maybe go above and beyond the minimum. I think our ordinance addresses the responsibility. We do have a clearing or a pruning detail on our Town of Huntersville Engineering/Public Works website.

Commissioner Kidwell expressed appreciation to the Public Works Department for the sidewalk being installed on Stumptown/US 21.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Michael Jaycocks recognized SABIC for their volunteer work at North Mecklenburg Park.

AGENDA CHANGES

Commissioner McAulay made a motion to add the following items to the Consent Agenda:

Item K – Approve purchase order for purchase of replacement Dectron units for HFFA with standard terms subject to modifications by the Town Attorney.

Item L – Adopt Annexation Ordinance #ANNEX15-01 to annex Centennial Phase 5 (14.80 acres) into the Town of Huntersville.

Item M – Adopt Annexation Ordinance #ANNEX15-02 to annex Centennial Phase 6 (1.71 acres) into the Town of Huntersville.

Item N – Adopt resolution approving interlocal cooperation agreement with Mecklenburg County for fire protection services.

Commissioner Neely seconded motion.

Motion carried unanimously.

Commissioner McAulay made a motion to adopt the agenda, as amended.

Commissioner Bales seconded motion.

Motion carried unanimously.

PUBLIC HEARINGS

Mayor Swain recognized Planning Board members present: Bill Walsh, Dan Boone, Joe Sailors, Susan Thomas and Joanne Miller.

Petition #R15-01. Mayor Swain called to order public hearing on Petition #R15-01, a request by Ernie and Roberta Lee to rezone 0.53 acres at 15412 Old Statesville Road from Highway Commercial to Special Purpose – Conditional District allowing most SP uses, including a wood cutting operation.

Jack Simoneau, Planning Director, entered the Staff Analysis into the record. *Staff Analysis attached hereto as Attachment No. 1.* This property is on Highway 115. The total tract is over 1 acre, but in actuality they are just wanting to rezone this piece of the property here from Highway Commercial to SP. SP actually goes across the railroad track and touches this property. The rezoning area is 0.53 acres. This shows the site in its entirety. The Lee Woodcutting is right in this area here and this is the section that they want to rezone. The woodcutting operation is operating out there today and as Highway Commercial zoning it's allowed out there but because it's Highway Commercial they can have a very small storage area. It's a little over 1,400 sq. ft. In essence the outdoor storage is 1,400 sq. ft. under Highway Commercial. When we talked to the Lee's about what the options were to correct this and could they shrink it, the answer was no, not to make reasonable use of that property and shrink it and so they did have Special Purpose zoning right behind them, so they asked for it to be rezoned as Special Purpose Conditional District and that would eliminate the maximum square footage of the outdoor storage and so that's why this request is coming before you tonight.

This map shows the initial map that was in the agenda packet. At that time the intention was to have the existing trees that are out there on 115 remaining out there. They would have Leyland Cypress and then a 5' tall fence in this area here. This is 115. The Lee's actually own the property immediately to the south and that in fact is where the office is where you pay for the wood. They own the property and actually the property to the north is on the same lot, so that's being rented by the Lee's for single-family and there also is another tract up here with a house also controlled by the Lee's. You have some single-family homes across the street and behind them is a storage facility.

They have asked for the map to be modified and so this shows the new map. What they would like to do is to have the fence extend to this area here with the evergreen shrubs, also all along the front and then also back up into this area here. They do not want to buffer between their existing properties and they also would like to not buffer along that rear property line. Staff is not opposed to that request. Behind them as I mentioned is an outdoor storage facility and the outdoor storage facility's property line goes across the railroad track and actually goes and touches with the Lee property. There is some wood piles back in this area here. We have received word from the property owner who controls that storage facility that they would like that wood pile moved off of their property, but they did not have a problem if there was no buffer in this particular area here. I went out to the site and met with them. As you can see there's already existing storage, there already is a buffer along there, they would just like the wood pile moved off of their property and that is going to be worked out between the Lee's and the storage facility. This is the existing trees that would remain and again there would be a fence extended across

here and there would be evergreen shrubs planted as well. This is the new site plan that reflects the request.

Commissioner Kidwell said I just want to be sure that everybody knows I had walked this property with Commissioner Bales a few months ago. I just wanted to put that on the table.

Commissioner Julian said I was just going to say I go to church with the Lee's. The Lee's have been around this community for a long time. I do go to church with them, not that it's going to impact my decision, but I do want to disclose that.

Commissioner Phillips said I have met with the Lee's and Town staff. I talked to Bob earlier today and he said I didn't have to disclose it. The Lee's have actually done everything we've asked them, haven't they.

Mr. Simoneau said correct. Once we found there was a violation they were right there to help find a solution to it.

Commissioner Phillips said so it's just the right thing to do.

Mayor Swain said do we have a height limit.

Mr. Simoneau said there isn't a height limit. That question did come up at the Neighborhood Meeting, which is included in your agenda packet. Mr. Lee did check the conveyor belt as 12' high, so 12' is about the height of the wood pile.

Joe Sailors said if it goes to a SP zoning that will allow almost anything on the property. Is there anything included on application that if this applicant leaves it reverts back to Highway Commercial.

Mr. Simoneau said the answer to that question, there's a lot of overlap between Highway Commercial and Special Purpose in terms of the land uses. What the application does, you can't see it here, but the most obnoxious things, the heavy manufacturing, all of these uses, their Special Use Permit is we are excluding all these uses, so when you get your site plan you will see all of the uses that they will be not putting in that property and so staff has reviewed that. We are comfortable with the language that they have there.

There being no further comments, Mayor Swain closed the public hearing.

Petition #R15-02. Mayor Swain called to order public hearing on Petition #R15-02, a request by Chick-fil-A LLC to update and amend Article 7.4 of the Zoning Ordinance in regard to calculating specimen tree save mitigation requirements.

Jack Simoneau, Planning Director, entered the Staff Analysis into the record. *Staff Analysis attached hereto as Attachment No. 2.* This is a request to rezone Chick-fil-A to Highway Commercial so they fall under today's standards. And I'll explain why they are doing that through this process. The rezoning is a conditional zoning that involves 1.33 acres. What's happened is Northcross was approved as a large rezoning and that rezoning was approved decades ago and they are subject to the 1991 Huntersville Ordinance. This is actually the site where Chick-fil-A is. They are asking to modify the zoning so they can fall under today's standards because today's standards are more relaxed with respect to off-street parking standards. What they would like to do is add another drive-through so that they can process

more traffic there. It's a traffic problem on the property. Right now, the 1991 Ordinance that they are subject to requires 15 parking spaces per 1,000 sq. ft. They want to put a little addition on to that for a cooler and some offices. The total building square footage would be 4,297 sq. ft. If they were subject to the 1991 Ordinance they would be required to have 65 parking spaces. Currently today they have 58 and so putting in that drive-through and doing some changes that they want to do wouldn't work. What they are asking is to fall under today's standards that requires one space per 500 sq. ft. For this size building you would only need nine spaces. No business is going to do.....in other words what the ordinance does is it lets the market decide. They are not going to provide 9 spaces. They are actually going to provide 49 spaces.

With that, here's the things that they want to do to bring this site up to standards. Most important I think is that they are going to now start to treat storm water that comes off of that property. Today there is no storm water treatment on that property. And falling under today's regulations, they will now capture that storm water and treat the storm water in these particular areas here. They also will bring their site up to compliance with signage standards. They will provide a walkway across the drive-through to get into the building. They are proposing, there's at times parking on Caldwell Creek Drive, what they are proposing to do is to come back here and anybody that parks back here give them an opportunity to come back up.....you've got a hotel right across the street so anybody that wants to go from the hotel over to Chick-fil-A, they will be able to have a walkway back in that particular area.

I will mention the interchange modification study for Exit 25/Sam Furr Road. As you are aware there is change occurring at that interchange and so one of the solutions is to have another bridge crossing for local traffic in this particular area. It's going to come in very close proximity to this. It will actually be between the McDonald's and the Chick-fil-A. None of this has been designed at this point in time. We have let the applicant know what may be coming down the pike. It still has to be studied but we have disclosed what potentially could happen in that particular area.

Commissioner Julian said go back to the interchange modification study. Is that in any of the Transportation Improvement Plans and if so how far out are we talking.

Bill Coxe, Transportation Planner, said right-of-way acquisition in fiscal year 2019, construction in fiscal year 2021. The planning is underway now.

Commissioner Bales said how long do you estimate it to be before a decision is made on this modification.

Mr. Coxe said probably a year and a half from now. We'll have a pretty good idea in about a year, but decision you are probably looking at year and a half.

Commissioner Phillips said I want to let everybody know that I know the owner Joe. He is a customer of mine at the store. I think everything on tonight I know everybody. I'd like to disclose that. Getting back to the new interchange, the bridge over I-77, is that a part of the managed lanes?

Mr. Coxe said no, sir.

Commissioner Phillips said how could it come on in 2019 or 2021.

Mr. Coxe said because it's in the State's TIP in the statewide program and that was the schedule established for it.

Commissioner Phillips said but it's not a part of the managed lanes.

Mr. Coxe said no, sir. It's coming out of the regular STI development process.

Commissioner Julian said if that bridge is built across there, whether they enhance Chick-fil-A or not, there's no way that a road could go between the two now without taking one or the other. Is that a correct statement.

Mr. Coxe said in my opinion it would be very difficult to squeeze a road between those two fast foods and not adversely affect their operations to the point where one of them has to leave.

Commissioner Kidwell said isn't there a road there now.

Mr. Coxe said there's a driveway there now.

Commissioner Kidwell said and that allows you to get back over there on 21, right.

Mr. Coxe said correct. To accomplish this there will be significant operational difficulties and so it's going to take a lot of work to make this work.

Mayor Swain said it wasn't that long ago when NCDOT made traffic changes at 25 that the prognosis was that they would not do well in business.

Mr. Coxe said apparently people have found a way to use the system that we have given them.

Mr. Kidwell said on the bridge here, just to be clear, a year and a half out before the decision is made, construction we are looking at another 5 years, correct.

Mr. Coxe said correct.

Dan Boone, Planning Board, said it was suggested at the Neighborhood Meeting to stripe the road behind it for four or five parking spaces for employees that get there early.

Max Buchanan, Public Works Director/Town Engineer, said we've had some discussions about a center line for that section. You have to be careful with on-street parking due to conflicts with driveway access. You have to be able to ensure sight distance and all. We haven't put out a concept but it's something that we are considering. What we wouldn't want to do is put in a crosswalk that's not at a signalized intersection. We don't feel safe or comfortable with that due to safety concerns, but we think maybe a center line stripe and maybe to try to accommodate some on-street parking we're going to probably put a concept out there for consideration with our Planning Department and our Transportation Planners.

Commissioner McAulay said in the Staff Recommendation, you recommended rezoning approval with some remaining comments from staff to be addressed. Have those been addressed.

Mr. Simoneau said yes, they have.

There being no further comments, Mayor Swain closed the public hearing.

Petition #TA15-04. Mayor Swain called to order public hearing on Petition #TA15-04, a request by the Huntersville Planning Board to amend Article 7.4 of the Zoning Ordinance in regard to calculating specimen tree save mitigation requirements.

Jack Simoneau, Planning Director, said we would like to continue this public hearing because we have such a big agenda tonight with many things to get to and two of the key people involved with this are not here tonight. Our recommendation would be to continue public hearing to August 3.

Commissioner McAulay made a motion to continue public hearing on Petition #TA15-04 to August 3, 2015 at 6:30 p.m. at Huntersville Town Hall.

Commissioner Neely seconded motion.

Motion carried unanimously.

Petition #ANNEX15-01. Mayor Swain called to order public hearing on Petition #ANNEX15-01, a request by Guardian Rentals LLC, KJB LLC and Centennial Phase 5 LLC to annex Centennial Phase 5 (14.80 acres) into the Town of Huntersville.

Alison Adams, Senior Planner, entered the Staff Analysis into the record. *Staff Analysis attached hereto as Attachment No. 3.* This annexation is an annexation of 14.80 acres and it is just south of Ramah Church Road. All the legal requirements have been met, therefore staff recommends the annexation.

Commissioner Phillips said there's another little piece of property that everything else is in the town but that one little piece. Why would we not go ahead and take it in now while we are in this process.

Ms. Adams said annexation is voluntary only by general statute.

Commissioner Phillips said has anybody contacted them and asked them.

Ms. Adams said I'm not aware if they have or not. Nate Bowman, obviously he's the developer of Centennial, so this is his project and I'm not sure if Mr. Bowman has actually contacted that property owner.

Jack Simoneau, Planning Director, said this is the property that you are talking about. We have not reached out to the property owner that I'm aware of, but we will this week reach out to them just to see if they voluntarily want to annex into the Town limits.

There being no further comments, Mayor Swain closed the public hearing.

Petition #ANNEX15-02. Mayor Swain called to order public hearing on Petition #TA15-02, a request by Centennial Phase 5 LLC to annex Centennial Phase 6 (1.71 acres) into the Town of Huntersville.

Alison Adams, Senior Planner, entered the Staff Analysis into the record. *Staff Analysis attached hereto as Attachment No. 4.* The property is 1.71 acres. The same developer is making the request. This property is at the corner of Fred Brown Road and Heritage Vista Drive. All legal requirements have been met, therefore staff recommends annexation.

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

Mayor Swain said there were people here to speak on the Lee property rezoning.

Bob Blythe, Town Attorney, said I would suggest you reopen that hearing to give them an opportunity to speak.

Mayor Swain said Bobby, they are on the front porch. Would you let them know I'm going to let them speak.

Commissioner Julian said this is a question for the Town Attorney. If the person that signed up has already left due to we forgot to call them forward, since the public hearing is open can we notify them.

Commissioner Phillips said it's closed.

Mayor Swain said I'm going to open it again.

Mr. Blythe said you can re-open the public hearing and continue it to the next meeting.

Commissioner McAulay made a motion to re-open public hearing on Petition #R15-01, a request by Ernie and Roberta Lee to rezone 0.53 acres at 15412 Old Statesville Road from Highway Commercial to Special Purpose – Conditional District allowing most SP uses, including a wood cutting operation.

Commissioner Kidwell seconded motion.

Motion carried unanimously.

Scott Williams, 15401 Old Statesville Road, said I'm a 42 year member of Huntersville. I'm very proud of that. The property across the street causes me no harm. I actually enjoy seeing the wood go up every year. I think some people have a problem with it being an eyesore. I don't. And also the noise, I don't hear any really.....no more than I hear from the auto places on 115 with their compressors and their wrenches and stuff like that. It's pretty much a commercial area and I happen to have a house there. I just wanted to say I have no problem with the Lee's property.

Mayor Swain said Bobby went out and the others that had signed up to speak didn't want to come back in.

There being no further comments, Mayor Swain closed the public hearing.

OTHER BUSINESS

Petition #SUP15-02. Mayor Swain called to order quasi-judicial hearing on Petition #SUP15-02, a request by Ron Randle on behalf of the property owners for a special use permit to develop a banquet facility (Harper Grove) in the Rural zoning district located at 14532 and 14520 Beatties Ford Road.

Commissioner Phillips said I would like to disclose that I live out in this area and I have had citizens come by and talk to me at the stand.

Mayor Swain said that's your job as a commissioner.

Commissioner Phillips said I know the area and the people involved, but I wanted to disclose that. I don't think it will impair my judgment one way or the other, but I still wanted to disclose it.

Mayor Swain said are you getting any financial anything from this.

Commissioner Phillips said no.

Mayor Swain swore in Jack Simoneau, Stephen Trott, Max Buchanan, Ron Randle, Peter Brengel, Jerry Broadway, Nancy Finizio, Barbara Mariano, Paul Mariano, Briana Randle, Keren Chevere, Rebecca Lee-Bryk, Nathan Sipp, Trey Barnette, Julie Barnette, John Binnie, Erin Padgett, Brandy Childs, Bill Walsh, Dan Boone, Joe Sailors, Susan Thomas and Joanne Miller.

Mayor Swain said we will give everybody an opportunity to speak and when you do that you will have to state your name and your address for the record and you will be given three minutes.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 5.* This is a Special Use Permit application to establish a banquet facility at properties at 14532 and 14520 Beatties Ford Road. The information is in your Staff Report. They are asking for this Special Use Permit. We have highlighted the properties in question. You can see this light green area. This is zoned Rural. What the Town Board has done is to allow banquet facilities to locate in a Rural district as long as a Special Use Permit is issued and subject to the criteria that is established in the ordinance. That is what they are asking for.

This shows the site in particular where the improvements would be. There's an existing house here and some farm buildings and a silo and you can see the properties across the street, residential subdivisions, residential homes, farmland just to the north of this property and also farmland and houses to the south of this property.

This is the site plan that's included in your agenda packet. It has a number of the criteria that's in the ordinance and then the applicant addresses how they feel they have met those standards in this section of the Special Use Permit application. In essence what is happening is there will be an entrance on Beatties Ford Road right in this particular area here leading to a parking lot. There will be some overflow parking in this particular area here. The banquet facility would be built in this particular area. This would be the outdoor seating area. They also are going to buffer per the Town's ordinance along the property lines where they adjoin residential zoning.

This is the building that they propose to build in this particular area here, so they will utilize one of the farm buildings here and keep the silo here, tear down the sheds, but they will be building this facility right in here. It is two stories. The square footage is all in the Staff Analysis. Some key notes that are on this application that we want to point you to and some of these address some of the concerns the Planning Board had:

- Harper Grove agrees to host only one wedding per day.
- Maximum guest capacity for any singular event at Harper Grove will not exceed 240 guests.
- Harper Grove may host more than one non-wedding event per day such as training sessions, meetings, luncheons or other non-wedding events.
- In the situation where more than one event occurs per day, Harper Grove agrees to require a 3-hour minimum timeframe between the end of the first event and the beginning of the second event.

- All events in which alcohol is served will require two off-duty police officers on site from the commencement of reception until guest departure.

I do want to point this out, this is a quasi-judicial hearing. This is a Special Use Permit, so these conditions that are put on there, these are what the applicant said they would do and so they are enforceable. If somebody were to violate those, if we were to find out about it, we can go back through the process for revocation of that Special Use Permit.

- Harper Grove does not categorize trips associated with site visits by potential customers or vendors as an event, so it's actually the guests that are coming is how they worked with our Town Engineering to figure out the traffic generation figures.
- Amplified music such as provided during a wedding reception via a DJ or live band will be limited to indoor spaces with the exception of acoustic ceremony music and/or the wedding officiate which may be nominally enhanced with modest amplification for guest clarity.

I won't read all the details on that, but in essence it has the decibels that they would be establishing at 70dB and in order to ensure adherence to the Huntersville Noise Ordinance, Harper Groves agrees to submitting to Planning a sound level reading at each event where amplified music is provided via DJ or live band. Sound level readings will be gathered at closest property line where music is played and submitted to the Town Planning Department.

When the Planning Board heard this, the Planning Board had some concerns about what kind of events would happen. These are some additional notes that were included. As mentioned before, there will be one wedding event per day. The use is to be limited to wedding, banquets and meetings. They will exclude motorcycle rallies, car shows and non-invitation events open to the general public, so music festivals and things of that nature would not be included in this. And then commercial fireworks and other illegal fireworks would be prohibited from use.

There are a number of items that are in the Staff Analysis, an update of everything that has happened up to this date. Planning Staff was not opposed to this request and recommends approval based on the findings of fact that were outlined in the Staff Analysis. Any decision that is made has to be based on sworn testimony facts that are presented to you. We would ask that the guests for each event be reported to the Planning Department quarterly along with the decibel levels and there's just some clarity that these uses that would be excluded would be just clarified so that it clearly excludes motorcycle rallies, car shows and these non-invitation events.

The Planning Board heard this request at their last meeting. They did recommend approval 6 to 2 based on the findings of fact that the Staff presented and the conditions added addressing fireworks and limited uses, which we just went over. The case is before the Town Board. The Town Board needs to decide whether to approve or deny or even continue and so you have to determine whether they meet these criteria in Section 9.59 and then also what are the facts that support the decision either for approval or denial.

With that I will be able to answer any questions and then the applicant can also address anything specific. I think the applicant has a very specific PowerPoint that they want to present to you as well.

Commissioner McAulay said are outdoor events permitted.

Mr. Simoneau said you could have a wedding outdoors. You could have a function outdoors, yes.

Commissioner McAulay said could you have a music festival outside.

Mr. Simoneau said no. That is one of the things that the Planning Board and the residents had actually raised concern about that. In the prohibited uses, they are going to exclude non-invitation events open to the general public, so these music festivals would not be included in that.

Commissioner McAulay said on the property I know that a new residence is going to be built on the site. Does that mean there are going to be two residential units on the site.

Mr. Simoneau said no. There's an existing residence right in this area here. That will be removed. This is the site of the proposed residential property and this will be the event building. There won't be a residence in that building.

Commissioner Julian said we've got noise protection by 70 dB. How about lights shining. What's our ordinance.

Mr. Simoneau said there's a lighting ordinance. You can't have light spillover at the adjoining property, so there is a light ordinance that applies. If this Special Use Permit is approved then they will be going through the normal process to get a building permit, site plan permit and that's at the point where we would check to make sure all the lighting meets the standard setbacks etc.

Commissioner Julian said do you have either a GIS or Google satellite view. What's right next to this property line on each side of it.

Mr. Simoneau said this is an angle view.....this is Beatties Ford Road. This is the site right here. Immediately to the north is farmland, single-family residential; to the south residential, farmhouse clusters; directly across the street residential subdivisions, single-family homes.

Commissioner Phillips said how are we going to regulate this noise....this 70 dB when we don't have the equipment to do so.

Mr. Simoneau said this is in the Town limits, so the Town's Noise Ordinance does still apply out here. The Police Department does enforce noise regulations. With respect to the decibel levels, we would work with the property owner. We do not have a decibel device. We could get a decibel device and we would monitor it if we found that there were problems. The Police Department does have to enforce the Noise Ordinance and the Planning Staff would also be responsible for holding them to whatever conditions that are put on that site plan, including that decibel limit.

Commissioner Phillips said does the applicant know that there's a shooting range in proximity.

Mayor Swain said the applicant will be up in just a minute and can answer that question.

Commissioner Phillips said they are saying no on-street parking. Would the applicants be willing to put up No Parking signs on Beatties Ford Road.

Mr. Simoneau said that's a State road. It is prohibited from parking on there and so I don't see a need frankly to put a No Parking zone.....Max is giving me the thumbs up that I said the right thing. He'll be happy to come up here if you need further clarification.

Mayor Swain said perhaps the applicant will discuss that when he's up here.

Mr. Simoneau said there is some overflow parking on this site. The intention is to have everything on the site, nothing out on Beatties Ford Road.

Commissioner Phillips said they have in here a stipulation that if alcohol is served they were going to put Huntersville police officers there, but how about when alcohol isn't served, as far as the traffic.

Mr. Simoneau said there's no commitment to have a police officer there on their site plan. You can ask the applicant that when they come up.

Commissioner Bales said just to go back to the decibel readings. Looking on your notes it says that the petitioner would take the readings during an event. I'm okay with that, but they would have to have the equipment to do that as well, so they are good with that.

Mr. Simoneau said correct. And the applicant will be here. I think that's part of what their presentation is going to be about.

Commissioner Neely said could you clarify again how we've solved the problem of no music festival.

Mr. Simoneau said the applicant has said that they would prohibit uses that would be open to the general public. If you feel like that language is not strong enough then I'm sure the applicant would be willing to talk to you if you think that language needs to be worded differently. We were comfortable with the language they had presented to us.

Commissioner Neely said my concern is I understand open to the general public, but if I wanted to invite 240 of my closest friends to a music festival, then I had an invitation and it's not open to the general public, is that not a music festival.

Mr. Simoneau said the applicant will be here to explain what conditions they would be willing to put on that.

Commissioner Julian said I was just going to make a comment to the Board. In the past we've approved many uses where we were worried about noise and the Chief nor Planning do not have decibel meters. So one of the things I think is this Board should take up that issue, not right now but at the earliest convenience, to make sure that they have the proper equipment not just for this but ordinances everywhere if somebody calls with a noise problem.

Commissioner Bales said I was out on this site earlier today and when you pull up and you kind of come up an incline and then it looks like it drops off somewhat. Is there the intention to leave that drop so that the new buildings would sit down into that dip. The reason I'm asking this is I would think noise would bounce off of that versus spread but if you are grading it and leveling it out then I think the noise would travel faster.

Mr. Simoneau said the building is going to be back going down to that drop back in this particular area, but that doesn't affect this property on either side. The applicant will talk more about that. But the intention is the building would be located as the land is dropping back.

Ron Randle, 9901 Duane Court, Huntersville, presented PowerPoint presentation to the Board. *PowerPoint attached hereto as Attachment No. 6.* I would like to thank the Mayor and Board of Commissioners for allowing us the opportunity to talk tonight about our dream. I'd also like to thank Jack Simoneau, Brad Priest, Stephen Trott and the entire Planning staff for working with us so far to get to this point.

For over 19 years my family and I have loved calling Huntersville home. We are active in our church and community. I'm an active member of the Lake Norman Chamber of Commerce. I participate in the Huntersville Connection networking group. My wife and I, mostly my wife, have raised our three children in this amazing town. And while not exactly native to Huntersville, we can't imagine living anywhere else. Huntersville has also been a great place for us to operate a small business. Five and a half years ago my youngest daughter Briana and I opened Love Shutter Photography, a studio specializing in wedding and family portrait photography. In the last 5 years we have been blessed to be a part of many, many weddings and we have visited banquet facilities all over North and South Carolina. And while there are many wonderful venues, we've noticed two things. There aren't very many facilities that have been designed from the ground up to provide the perfect backdrop for a dream wedding and there aren't many banquet facilities focused on serving the North Mecklenburg market.

Two years ago my family and I began implementing a plan to create a purpose built banquet facility that would be located in Huntersville and be an economic and civic benefit to the Town we love. We are calling it Harper Grove. Nestled on 30 acres of pasture and forest in west Huntersville, Harper Grove was created from the ground up to deliver a personalized wedding and banquet experience to clientele seeking a premiere event venue in the Huntersville/Lake Norman area. We believe Harper Grove will not only attract premium clientele to Huntersville, but also provide an economic boost to our region. In addition to the hotels, restaurants and tourist revenue that will be generated by out of town guests, our preferred vendor list boasts a wealth of Huntersville and local businesses that will benefit as well including Bouk Catering, Family Catering, Savory Moments Catering, Willow Floral Boutique, Erin Padgett Events, Cooke Rental, Lily Rose Boutique, B.childs Weddings, Classic Bridal, Sweet Cakes, Nothing Bundt Cakes and Maddy's Fatty's just to name a few. Harper Grove will eventually realize an economic impact to local businesses in excess of \$2.9 million annually. And that doesn't include labor, maintenance, landscaping, cleaning, security and a host of other businesses that will also provide an economic benefit to Huntersville.

During the last 2 years while searching for a suitable parcel of land to accommodate Harper Grove, I have worked closely with Huntersville Planning staff members to ensure our project was in alignment with the Special Use text amendment and that the parcels we were considering would be appropriate for our intended use. Throughout this process including two public hearings we have vigorously addressed each of the comments that were discussed by Planning and the residents including traffic, parking, limitation of event types, guest capacity, noise and outdoor amplification restrictions, security and the maintenance of the rural character. I believe the most recent site plan that you have in front of you has addressed all of the comments in totality. We have voluntarily limited our guest attendance. We have imposed restrictions on sound amplification and the types of events we will host. We've increased our parking lot capacity, reduced the size of our signage and we've added security for events serving alcohol. As was pointed out by one of the Planning Board members at the last Planning Board meeting, Planning staff, the Board and the community have asked for changes and the applicant has complied with virtually everything asked.

Tonight you may hear some residents talk about traffic, noise, maintenance of rural character and rather than speculate about what may or may not happen, I would like to talk factually about those issues and

our approach at mitigating those concerns and how Harper Grove meets and exceeds the objective criteria for the Special Use Permit.

I understand that a banquet facility may be an atypical use of a rural parcel and I completely understand how change can be unsettling. When my family and I first moved to Huntersville in 1996, there was nothing between Exit 23 and Exit 28 on Statesville Road other than a Burger King and a Target. Virtually everything that you now see on the 5-mile stretch of road has been built over the last 20 years. And while I may not love all of the changes that have occurred, including the 19-acre medical office park currently being built across the street from my subdivision, I appreciate that Huntersville is growing in every direction and that includes the west side of Huntersville and the Beatties Ford Road corridor.

With the approval of the Arbormere subdivision and the Cook Family subdivision, development is coming to the area and it will literally be 500' from Beatties Ford Road. When it comes to preserving the rural character of Beatties Ford Road, no one is more dedicated to preserving the rustic nature of the area than Harper Grove. Our premise and in fact our entire approach to this banquet facility is based on preserving the beauty, openness and natural condition of the land. On our 30-acre parcel we are developing a total of 3 acres, which includes parking, our building, one residence, that's it. Ninety percent of our property will not have a building, road, driveway or other impediment to the natural beauty that is already there. In keeping with the Beatties Ford Road Small Corridor Plan, Harper Grove will help maintain the rural character by continuing to preserve 90 percent of our open space. Compared to the Arbormere and the Cook Farm developments which will cover over 50 percent of their development with houses, garages, driveways and roads, the evidence and the facts are clear that Harper Grove will clearly maintain and preserve the rural character.

One of the Planning Board members at the last meeting commented that he was aware development was coming to Beatties Ford Road and felt that when it came to preserving the rural character of the area Harper Grove versus a residential development is clearly the preferred option. Harper Grove has from the very beginning been diligent about minimizing any impact from sound. Our building site was carefully chosen to use existing topography to reduce any possible noise impact. We have voluntarily offered to restrict the use of live music and DJ amplification to the interior of the building and to limit modestly amplified music during the acoustic ceremony and cocktail hour to 70 dB.

To provide an objective perspective of sound levels, we thought we would share some information with you. We recorded decibel readings at five different banquet facilities as well as multiple locations within Cashion Woods. Each visual reading that you are going to see is paired with a photo of the exact location of where the reading was taken. The evidence and the facts are clear and it indicates decibel readings with a band or DJ while they are playing inside is lower than the ambient noise level recorded at Beatties Ford Road and comparable to the ambient sound level within Cashion Woods. These are the numbers at Brakefield at Riverwalk in South Carolina. A DJ was playing and we have an exterior average 61 dB. This is Daniel Stowe Botanical Garden. There was a DJ playing inside. The exterior average was 62 dB. Daniel Stowe Botanical Garden with a string quartet playing was 71 dB at 6'. This is the Arbors. They are playing with a live band which you may not be able to see from here, but the doors are actually open here and even with a live band playing with the doors open and measurement taken at 15' we still only saw 79 dB. Morning Glory Farms with a DJ in an open air tent, no sides on it, was about 68 dB. One of our local neighbors here, Beaver Dam Historic House has no facility for containing music inside at all. It's an open air tent and we were seeing 60 dB taken at Swaney Lane, which happens to be directly adjacent to the two houses directly behind Beaver Dam. And this is on the property of Beaver Dam. We are about 170' from the actual tent and we saw readings at 70 dB. This is the location of the tent on Beaver Dam Historic House and if you look you can see the houses are super close.....we are talking

223', and we still even then only got readings in the high 60's and low 70's. You look at Cashion Woods.....Savannah Grace Lane and Rhiannon our average ambient reading was 74 dB. At 14415 Rhiannon we were seeing 68 dB. At Rhiannon and Marion Lavern we were seeing 66 dB.

While this evidence indicates sound levels will be low, we went one step further and asked the owners of the two houses closest to Beaver Dam Historic House how the sound affected them. Mary Gallagher said she's lived in the house since it was built in 2011 and stated she barely notices the sound and would have no hesitation purchasing her same house in the exact same location again. Jennifer Stewart said Beaver Dam Historic House has zero impact on her family and described Beaver Dam as background noise barely noticeable and said she has heard louder noise from cars passing by with loud stereos. Please remember Beaver Dam is an open air venue with no building to contain a reception or any live music or DJ music for that matter. All DJ and live music at Harper Grove will be contained indoors. In addition our sound readings taken at Beaver Dam were recorded approximately 140' from the open air tent. Harper Grove's closest neighbor is over 500' away from the main building. The next neighbor after that is more than 700' away and our neighbors across the street at Beatties Ford Road and Cashion Woods are almost 900' away, three football fields away from the main building. We have also voluntarily agreed to submit quarterly sound level readings from each event to Planning for enforcement.

To address concerns about adequate parking we have increased our parking capacity to 142 paved spaces and 32 overflow spaces providing a total of 174 spaces. It's important to remember that 240 guests do not equal 240 cars. We've done traffic studies and Stephen Trott can validate this information, we see about 0.6 cars per person, so we see significantly less cars than the actual guest attendees. With 90 percent of our property undeveloped however there are multiple areas that could serve as additional overflow should that need ever arise. We are highly sensitive to the concerns raised regarding traffic and as part of our discussions with Transportation, we enlisted a Huntersville approved transportation engineering firm, WSP, to collect and evaluate trip data at local banquet facilities. As recorded the highest average peak hour trip count was 38 cars occurring at 10 p.m. With the a.m. peak hour occurring between 10:00 a.m. and 11:00 a.m., the peak hour trip generation from Harper Grove simply does not coincide with morning or evening rush hour traffic. The collected data from WSP confirms Harper Grove's impact on traffic in general and rush hour specifically will be negligible and significantly less than a subdivision would generate. At the June Planning Board meeting one of the Planning members observed that if our land were to be developed residentially, we could expect over 400,000 trips per year versus the 30,000 trips that Harper Grove may generate. There's no question that Harper Grove will have less impact on the roadways and produce less traffic than a subdivision and there simply is no evidence to the contrary.

Finally, it should be reiterated that Harper Grove is a banquet facility, not a restaurant or an outdoor concert venue. The food served at Harper Grove is associated with a specific event and since we are limiting our capacity to 240 guests at non-public events, large gatherings such as those that occur at Rural Hill would not be feasible or allowed at Harper Grove. Our main focus is providing an exceptional location for weddings, meetings, banquets and corporate events. As stated in our application, our facility will cease operation before 11 p.m. with staff and vendors exiting the property by midnight. I would like to leave you with one last observation. The Special Use text amendment as approved in 2012 for banquet facilities in the Rural district recognized the need for preservation and enhancement to the natural environment and its scenic assets, increased economic diversity, hospitality and tourism initiatives and maintaining high design standards for architecture and place making. We feel that Harper Grove not only meets and exceeds the objective criteria presented in the text amendment, but is also consistent with numerous policies in the Huntersville Community Plan and we respectfully ask the

Mayor and the Board to carefully review the factual information as presented and recommend approval for our application.

Commissioner Phillips said are you aware that there's a shooting range behind this property and most of the guys shoot on Saturdays and I would figure that's when most of your weddings is going to be.

Mr. Randle said we have been out there a number of times. We've heard it occasionally but it hasn't seemed to be anything significant. I will tell you one of the things that is beneficial is sound decreases the further you are away from the source and we are about 1,300' away from that shooting range. You can hear it, but it's not like you are at a shooting range.

Commissioner Phillips said like I said, maybe the parking problem on Beatties Ford Road. Would you be willing to pay to put signs up.

Mr. Randle said I can assure you that if that was a concern and it was okay with NCDOT, I don't see any issue with that. I can tell you that the guests simply don't want to leave.....parking on Beatties Ford Road or in Cashion Woods is an inconvenience. And I think it's important to note that it's actually not very close to where the building itself is. The building is, as Jack Simoneau pointed out, way into the property itself and we have oriented the building and the parking lot to be close to each other, so parking on Beatties Ford Road itself simply is not practical. We have 30 acres here. We're putting in a gravel parking lot for 174 spaces with overflow. Every single person would have to drive to an event to use every single space.

Commissioner Kidwell said you talked about the catering services. Are you going to have an onsite kitchen or is everything going to be outsourced.

Mr. Randle said it will have a catering kitchen, so everything will have to be brought in.

Commissioner Kidwell said you'll have the kitchen, but.....

Mr. Randle said but someone else will bring the prepared food in.

Commissioner Kidwell said in terms of traffic, will there be a turn-lane into this site.

Mr. Simoneau said there are turn-lanes that are into the residential subdivisions and this would have to be striped for a left-turn lane.

Commissioner Kidwell said thank you Commissioner Julian for bringing up the lighting and discussing that. And you say we currently don't have any.....do we not have an ordinance with decibel.

Mr. Simoneau said we have a Noise Ordinance. It does not have a specific decibel standard.

Commissioner Kidwell said what's the fine on that.

Mr. Simoneau said I have the Noise Ordinance here {inaudible}. This map right here shows the turn-lanes that are into the residential subdivisions and what would happen is this area would have to be striped for left-turn lanes into the property.

Commissioner Neely said I applaud you for all of the detail that you put into this submission and the amount of work that's gone behind it. Could you define cocktail hour. In your write-up is that from 10 to 11 or is that from 3 to 4.

Mr. Randle said that's a wedding industry term for the time between the end of a ceremony and when the reception begins. That's typically when family photos are taken. The ceremony is over and they have a cocktail hour which is typically light hors d'oeuvres and usually light acoustic music and it's a time for everyone to leave the ceremony area and start making their way towards the reception. If you have a 5 p.m. ceremony, that's from 5:30 p.m. until 6:30 p.m. typically.

Commissioner Bales said just for clarification for my piece of mind, the topography will not change.

Mr. Randle said I'm so glad to hear you ask that question. If you look at the plan right now, the parking lot is the very highest location of the property and it all goes downhill from there. Our intent and our siting of the building has always been intentional to take advantage of the topography. Earth is the best natural dampener for sound and we want to use that to our advantage, so you will see that the building is actually slightly off center and it's also aiming towards the deepest part of the ravine. If you look at that curved area just behind the outdoor reception area, it plunges about 30' down a ravine there and we have located the entire facility aiming towards that back area where there's nothing back there at all.

Peter Brengel, 5923 McDowell Run Drive, Huntersville, said that's in the Riverdale subdivision. There actually isn't a turning lane into my subdivision. It's a partial one. It kind of disappears as you enter. There's enough room for a police car to park at the right-of-way but as you enter my subdivision the lane disappears so we actually have to merge back into the lane, but that's neither here nor there. The issue that I would like to raise, the consumption of the alcohol and how that's going to be controlled late at night. I'm a nurse. My wife is a nurse and my daughter is a nurse. My wife and daughter do shift work and they frequently drive down Beatties Ford Road since it's been here before Huntersville was even incorporated. It's a two-lane farm to market road with shoulders approximately 6" wide and there's many areas, I know they go around every year and put some sand in, but if people swerve off the road slightly.....actually on Gilead Road a couple of months ago I saw a police car that was in a horizontal position on the side of the road off Gilead Road. I just want to know how public safety is going to be protected when 240 people are leaving. Weddings are notorious for people becoming inebriated and maybe just one or two and I want to know if Huntersville is going to have the liability. In their plan they say they are going to have two off-duty police officers at the event. I think that's a good idea for the police officers to have part-time work since I think they are underpaid, but I just wonder if there's a conflict of interest there and also I'm just worried when people are leaving at 11 p.m. and they are driving down the road, there might be one or two intoxicated people that might cross the yellow line and kill another resident of Huntersville. I've been a registered nurse for 30 years and I've taken care of many people that have been in serious car accidents, so I think that's an issue. I also question if you have 157 parking spaces and only 240 people, why do you even need overflow parking and how are they going to prevent people that are slightly inebriated from wandering into Cashion Woods and ambling down our streets late at night and maybe going on our property to do things that inebriated people do, which I wouldn't appreciate. I think that has to be considered. As Commissioner Julian pointed out, positive contributions of corporations that don't require any services.....well I think this is a type of entity that's going to require a lot of services late at night – phone calls.....how are you going to keep people from yelling, horns honking late at night and things like that. I just would like those things to be considered and also the liability of inebriated people driving down the road. I wouldn't want somebody to sue the Town of Huntersville since they approved it.

Jerry Broadway, 6420 Savannah Grace Lane, Huntersville, said I would like to thank you for giving me this opportunity to talk to you this evening about a matter of utmost importance. You will hear many speakers tonight talk about a lot of different issues related to this proposed banquet facility. I'm going to tell you that I agree with all of those concerns, but I will focus my comments on one aspect of this issue. The main overriding factor that you need to carefully consider as you vote on this issue is the Beatties Ford Road Corridor Small Area Plan. This plan was adopted by this Town Board on September 19, 2007 and it calls for three "mixed-use hamlet centers" along Beatties Ford Road all of which are located at major intersections. And you see those on the drawing that's on the screen and on your individual screens. These centers are located in the south at Mt. Holly-Huntersville Road, in the middle at Hambright Road and at the north at NC 73. The site of this proposed commercial banquet facility is not located in or near any of these designated commercial mixed-use areas and is contrary to the recommendations of the Beatties Ford Road Corridor Small Area Plan. Two of the primary goals stated in that plan are to establish a long-term preservation vision for the corridor and to influence the form and design of future commercial development. And I would like to quote from this study when it comes to land use it says the study area will continue to develop as a low density, predominantly residential district. Commercial development within the study area will be focused at NC 73 and the Mt. Holly-Huntersville Road areas with the third being at Hambright Road. It goes on to say "Future commercial development, new mixed-used retail and office centers should be located at the north NC 73 and south Mt. Holly-Huntersville Road ends of the corridor." Let me be clear, commercial development does not preserve the rural character of this corridor nor does it adhere to the concentration of commercial development within those nodes identified by that plan. The proposed facility is clearly not in keeping with the above stated goals of the small area plan and should not be approved at this location. Other more suitable locations exist along Beatties Ford Road and are available within the designated mixed-use hamlet centers. Throughout this Beatties Ford Road Plan reference is made to preservation of the historic rural character of the corridor focusing commercial development at the north and south ends of the corridor. For preservation of the historic rural heritage of the corridor this proposed development is contrary to these goals. In closing I would like to just say that one of the things that attracted me and my wife Linda to this part of Huntersville was the quiet rural character that we have there – horse farms, green fields, quiet rural residential areas attracted us to there. This proposed facility, if approved, would change forever the unique character of this area. The proposed facility is not in keeping with this rural residential development of Beatties Ford and I urge you to vote to deny it.

Nancy Finizio, 14306 Rhiannon Lane, Huntersville, said with regards to the Special Use Permit application I would like to first look towards the future and the Town of Huntersville's Small Area Plan for Beatties Ford Road, which is on the screen. Per the plan as Mr. Broadway had mentioned also there were three areas designated for mixed-use type development on the Beatties Ford Road Corridor, one at the northern end with the junction of NC 73 where a gas station and other businesses already operate. The second area per the Plan is 4.3 miles south on Beatties Ford Road at the intersection of Hambright. It has not been developed yet. The third is further south in the Long Creek and Mt. Holly-Huntersville Road section of Beatties Ford Road which has mixed-use development already. The land which we are discussing tonight that the Special Use Permit is being applied for is not in one of the three areas for mixed-use type development per Huntersville's Small Area Plan. Approving this application would go against the plan which the Town has put in place for the Beatties Ford Road Corridor. Secondly, the abutters to this land are active long-time family farms whose families' livelihood and animals would be negatively affected by a banquet facility next door as would the residential areas nearby. Some of the concerns are traffic, noise, alcohol use, hours of operation, activities which do not mesh well with farm activities and the fact that the Town does not have resources currently to enforce the conditions of the permit on a regular basis. Thirdly, if this permit were to be approved the permit

remains with the land so in the future currently unknown owners would be the custodians of this land and its use. Due to the intentions of the Small Area Plan to not locate mixed-use type development on this land, the location next to family farms and residential areas with the concerns of the commercial aspects of a seven day a week banquet facility with parking for over 140 cars and up to 240 guests per event and the fact that the permit would remain with the land, I respectfully ask that the Town Board deny this application.

Barbara Mariano, 14415 Rhiannon Lane, Huntersville, said we are the first house in Cashion Woods. We bought our home nine years ago after we fully investigated the area to be zoned Rural with no commercial sites in the area. On June 23 six members of the Planning Board voted to allow a large commercial banquet facility to be built right between a beautiful horse ranch and a large farm on the other side with a quiet neighborhood across the street with 120 families. I ask you to reconsider our objections on noise, lighting, traffic, alcohol consumption and the long operating hours of 8 a.m. to midnight and please reject the variance permit to keep our area Rural as originally zoned.

Paul Mariano, 14415 Rhiannon Lane, Huntersville, said I wasn't going to talk about sound level tonight, I was going to talk about something else, but a lot of figures were thrown around about dB levels. Sound does not travel in a direct line, it bounces. Running around with a Radio Shack sound meter is not a sound analysis. The questions you have to ask are who built the equipment, what is its percentage of accuracy, who used it, was it calibrated, was it calibrated by a standards lab, what were the temperatures, humidity, wind direction, all sorts of atmospheric conditions can affect sound. Until all of those factors are put into this analysis, running around with a meter saying 61 dB has no meaning. As previously noted the 70 dB level is a self-imposed because your ordinance does not specify a level. The other thing I want to talk about, it seems like the Planning Board and staff was answering the question why shouldn't this be built. The question is why is it being built. What good does it do. Why is it being built and interjected in between some nice farms across from a residential area and alongside a rural road. Please when you look at this and you consider it, don't say well why not, why shouldn't I allow it....look at it and say why am I allowing it.

Briana Randle, 1959 Abbott Street, Charlotte, said I am here to support Harper Grove. I am a co-founder and owner of Love Shutter Photography, a portrait photography studio that was started 5-1/2 years ago right here in Huntersville. I went to school here. I'm active in my church and I am one of the charter members of the Lake Norman Wedding Professionals Group. I am a wedding industry expert. Wedding photography is how I make my living and keep food on the table. Having photographed over 80 weddings, I was really surprised at the June 23 meeting to hear such wild speculations in conjuncture about how a wedding day unfolds and how a wedding might impact the neighbors, specifically the traffic, noise and safety. I don't know what kind of weddings you have been to in the past but every wedding that I've been part of and photographed has been one of the most joyous and respectful occasions. I know TV shows like Bridezilla and My Gypsy Wedding make weddings out to be some sort of out of control frat party meets the Jerry Springer Show, but I'm here to tell you from my personal firsthand experience that is just not the case. I'd like everyone here just to remember and think back to the last wedding that they attended. Were the police ever called to break up a fight. My guess is that your answer is going to be no. I can honestly say that in all the weddings I've ever photographed there has never been a single issue where the police were called because of safety concerns – never, not one. There's also been a significant amount of conjuncture regarding all day weddings. Hopefully I can shine a little bit of light on that situation. Based on my 5-1/2 years' experience as a professional wedding photographer this is what an average wedding would look like of 150 guests with a ceremony time starting at 5 p.m.

8 a.m. Harper Grove Venue Coordinator arrives.
11:00 a.m. – 3:15 p.m. Bridal party gets ready.
3:15 p.m. – 4:30 p.m. Bridal Party and family portraits are taken.
4:45 p.m. The string quartet will begin as guests arrive and are seated. Keep in mind at this point the bride, groom, bridesmaids, immediate family members, grandparents, the flower girl, the ring bearer, their parents, the ushers and all the vendors are already there at the wedding venue. The average peak hour trip count is 38 cars.
5:00 p.m. The ceremony begins.
5:30 p.m. – 6:30 p.m. Cocktail Hour and newlywed portraits.
6:30 p.m. The wedding party is announced into the reception and from here on out, everything is indoors.
7 p.m. – 8 p.m. Dinner served.
8:10 p.m. – 8:30 p.m. Cake cutting and toast.
8:30 p.m. Dance floor opens.
10:00 p.m. Last call for alcohol.
10:45 p.m. The last dance.
10:50 p.m. The newlyweds exit.
11:00 p.m. Vendor breakdown.

As you can see it's clearly not an all-day event. I stand in complete support of Harper Grove and I ask the Mayor and the Town Board of Commissioners to weigh the facts and to vote in favor of Harper Grove.

Keren Chevere, 1959 Abbott Street, Charlotte, said I am here to say that I'm in favor of Harper Grove. There has been a lot of speculation about what it's like to live next to a banquet facility and I'm here to state the facts of what it's really like. I live down the street from one of Charlotte's busiest banquet facilities, Byron's South End. If you were to Google my address you would see just how close I live to Byron's wedding venue. To be precise, it is 570'. Harper Grove would be 751' away from its neighbors to the south and 531' away from the neighbors to the north. If you were to walk out onto my balcony you can clearly see Byron's South End because there is nothing between Byron's venue and my balcony other than an open air parking lot – no trees, no busy streets, no tall buildings, nothing. Nothing to block any sound that you may hear. As a matter of fact, my bedroom window overlooks the venue and in my year of living at this location I've never had any issues with the noise or with the venue. Similar to Harper Grove, Byron's South End is an indoor banquet facility that holds up to 330 people and they have wedding ceremonies, events, cocktail hours in an outdoor courtyard with amplified and acoustic music. I have never been affected by the sound or the traffic and I don't question my safety with it being less than 600' away from my house. I am easily able to relax after a long day of work. Byron's South End has had no impact on my quality of life and I am sure that the Town of Huntersville will not have any problems with having Harper Grove as their neighbor.

Rebecca Lee-Bryk, 6612 Marion Lavern Road, Huntersville, said I'd just like to say a few things since we didn't get the opportunity at the Planning Board meeting to rebut anything that Mr. Randle or staff had to say. First I'd like to make it clear that I have nothing against weddings or change. That being said, Mr. Randle assures us he will follow to the letter the guidelines indicated for a Special Use Permit including controlling noise levels, no overtime, clearing out all guests at the prescribed time, his words in half an hour, and ensuring no one will drive under the influence. My husband of 31 years and I have five weddings between the two of us and in all my experience not once have I seen a DJ or band lower the volume on the music or refuse to accept extra money to play longer. I haven't been to a wedding where no one was under the influence or for that matter clear out of a wedding hall with the max of possibly

240 guests in an hour. These are concerns of everyone here with no guarantees by the Town that the Special Use Permit will be revoked if there are complaints that are bounded in fact. At the Planning Board meeting it was indicated the Town would have to monitor the parameters of the permit. How much will that cost and why should I or anyone else as a taxpayer have to pay for that. How much tax revenue will be generated by this banquet hall to warrant the alienation of your constituents. The subject of change was brought up.....that time doesn't stand still, that we need to accept change to the rural and residential feel of the Beatties Ford corridor. Change is good as long as it benefits everyone, not just one person. I welcome change as long as there is a benefit. Ten years ago my husband and I moved from New York for work. We worked in Manhattan for many years, enjoyed a three hour commute every day and wanted a change. We specifically picked out the Cashion Woods subdivision for the rural feel.....the road less traveled, so to speak. That feeling of tranquility will change with a commercial property directly across the street. What is the benefit, the pay-out. What do we get – more traffic, more noise, more people cutting through the development. No one has shared the benefits with us, just what Mr. Randle will gain. If someone can show me a tangible benefit to the Cashion Woods subdivision, I would consider rethinking my stance.

Nathan Sipp, 13621 Hagers Ferry Road, Huntersville, said I am the owner of the southernmost subject property. I just sort of want to offer some insight. Interestingly enough if it matters or not, I've tried to somewhat responsibly sell the property, if that matters. In fact I have taken significantly less money than other offers from developers in order to have Mr. Randle as the buyer. So far the interested parties include a charter school, two big name developers that work in conjunction with big name homebuilders, one interested private party and then there are two developers in line now as well. I just want to sort of make that be known such that I don't know that would change anything that the Board is going to consider, but unfortunately I have to sell the property and so I need to sell it to someone. Ironically I selected Mr. Randle as probably the path of least resistance that would be the best neighbor that would be maybe the best use and in using 3 of the 30 acres preserving some of what is there. Fortunately for us our town is changing. There's a lot of development coming with the approval of the huge subdivision behind it. It's going to change the landscape anyway. I thought in my opinion that their use was a pretty darn good thing to look at and the Randle family I found to be doing what they say they are going to do thus far and I am in support of it, but I understand all of your concerns.

Julie Barnette, 14700 Beatties Ford Road, Huntersville, said I'm directly next door to the proposed business. Mr. Randle's business could be bringing in 400 strangers every weekend that never knew these neighborhoods or our farm existed. There are zoning ordinances to protect against this very thing. The Town's own philosophy states that it isn't allowed. It was previously mentioned at a Planning meeting and this meeting that two off-duty security guards were going to be at every event. Dan Boone asked if they were for traffic control or for security and Brad Priest replied and I quote "Staff did not foresee them as traffic control but for security purposes." This means that they acknowledge that security is an issue. We are concerned about noise, traffic and lights, but my main concern is my family's privacy and safety. I have three children and an elderly mother and multiple animals living directly next door. It looks far away from the photos, but I promise you it is not in person. From my porch you can see the building. From the upstairs windows you can see the entire area. I have children swimming and playing in the backyard, all three teenagers and it will take up to 15 years for the trees they plant to provide any adequate privacy. Once this is in place no longer will you see trees, you will see a parking lot from my front porch. And keep in mind my horses are not 520' away. How will two people be able to patrol 30 acres and keep people from crossing over to our property trying to pet, maybe feed our animals or exploring the farm. If someone calls to book the venue, there are no background checks being done and just because some of the events might be weddings it is still strangers drinking next door until midnight. I'm now quoting from the minutes from the Planning

meeting. Dan Boone commented that Mr. Sipp will sell his property either to Mr. Randle or someone for 25 percent more money. Mr. Boone felt that the rural aspect is wanted to be kept, but also that development is coming and the wedding venue is probably the lesser of the two evils. First thing, this isn't only a wedding venue. Second thing, Mr. Sipp's property is not the one housing the venue, not the majority of the venue, it's Mr. Berk's 10 acres. Those 10 acres are directly beside us. It was told to my husband that Mr. Berk was going to rebuild it for his new family, never intended on selling until developers aggressively continuously contacted him. It is bottomland and there's not much use for it other than something like this. When you have a neighborhood, you have neighbors. You have accountability. If one of my neighbors throws a beer can on my property or tries to get my horses to drink beer, they will be accountable. With strangers next door every week then you don't have that accountability, so to me strangers are the more evil. Isn't the fear of strangers what prompts neighborhood watches anyway, so therefore respectfully I disagree with Mr. Boone. There already have been numerous restrictions placed on the permit – traffic, noise, light concerns, vendor concerns, fireworks concerns and trust me grocery store fireworks scare animals to death too. So, for all these restrictions placed on the permit it seems like already it's too much to ensure our safety. It should not be passed because the best intentions go wayside when there are bills to be paid. There are multiple more appropriate rural sites for sale all over for such a business where the neighborhood will not be affected and we wish developers luck on adding to their already flourishing photography business and what not, but please not at our expense. We wouldn't also want to steal from Rural Hill which is right up the hill and that would be not beneficial to our taxpayers. Please I respectfully ask you to consider my family's safety and deny it.

Trey Barnette, 14700 Beatties Ford Road, Huntersville, said this is a quasi-judicial meeting so I'm just going to get to the point. First of all, this is the application for a Special Use Permit for a banquet facility. This is probably an appropriate use for rural farmland in a countryside setting away from the suburban areas, but this is Beatties Ford. Beatties Ford now is a very established community with homes all around. There is some farmland around, but here's an issue that I have with this. There's some issues with this application that's been presented that's been publicly put before us. First of all the property owner that has signed this application owns less than the 10 acres that are needed to meet the application requirements. Secondly, the owner of the other property shown on the application did not even sign the Special Use Permit. Thirdly, on the permit provided one of the parcels listed on the application is not even a valid parcel number. This is public information and for these reasons I think this should be omitted from this Board and done away with. In regards to this business, this is impeding on us. This is a safety issue. Like Mr. Randle's daughter said, she said that she's been to lots of weddings where there were not police officers needed but even with their business plan they need two officers just to open the doors. There's a problem with that. We've become great friends with the people and the neighbors across the street. Like Julie said I would rather have neighbors that are accountable instead of having 250 guests here on the property every weekend.

John Binnie, 14412 Beatties Ford Road, Huntersville, said I concur with a lot of the comments that are being made tonight. One of the biggest issues that I have, I own the property that is immediately to the south of this proposed development area and we keep a number of animals on there including horses, cows, goats and it's fenced in, but it's human nature that people are going to want to go and look at the fence and look at the animals and sometimes it's because it's human nature they are going to want to pet them. Not all animals are pettable. Not all animals are able to be fed. People are going to climb fences and quite frankly I'm just concerned about the safety of my animals. The second thing is that this is a commercial operation. If you approve it you are now going to surround me with three commercials – this one, the shooting range that was referred to before behind me which incidentally exceeds the 70 dB level according to my meter regardless of the humidity and temperature especially when automatic

weapons are fired, sometimes by the Huntersville Police Department. Thirdly, I have a commercial operation of dog breeding on the other side where there's sometimes as many as 40 or 60 dogs at one time. If you approve this you might as well approve the whole Beatties Ford Road as one piece of commercial development.

Erin Padgett, 12406 Kemerton Lane, Huntersville, said I'm here in support of Ron Randle and Harper Grove. I have been a Huntersville resident for about 7 years now and I am a full-time wedding planner. That is my job. It is not a hobby that I do on the side. It is something that I do day in and day out seven days a week. I can speak highly about a wedding venue and what happens there. I've been in the industry as a wedding planner in different capacities for almost 6 years now and in that time I've done well over 100 weddings and never at a single one of them has the police been called out for any situations with noise, any situations with alcohol. What you have to remember, and again you put yourself in the position of being at a wedding, you like to have a good time and the guests want to have a great time but they also want to be respectful of the bride and groom and they don't want to be that person that creates a problem with alcohol. So as Briana Randle was saying I think the media and people get a bad rap for what weddings are. They are actually really nice affairs. The typical wedding reception is four hours. I think that even though the facility itself would have 8 a.m. until midnight as hours, the actual time that people will be on the property is much less. The vendors may be there ahead of time but that's not causing any trouble with noise or traffic. That's indoor situations and they all come over a span of about three hours. And then you have, just as Briana was giving you, a four hour reception. You have a ceremony that's usually 30 minutes, a short cocktail hour and then four hours and then everyone is out the door. The reason for a send-off at the end of the evening is so that everyone leaves at the same time, so you don't have that issue of trying to get people to leave over the course of an hour. They all leave the same and again it's been noted that 38 cars is kind of the standard here or the average. The other thing people were talking about was parking and you may or may not know this but 60 to 70 percent of all weddings use shuttles because they want to provide that transportation for their guests so that they can get as many guests as they can from one location to the other be it from a hotel or a home that they are staying at to the venue and then again at the end of the night ensuring the safety of all their guests to get home if they've had too much to drink or even if they've had a little bit to drink it allows them to go. That also cuts down on the number of cars that will be at the actual venue. Typically for me there's at least two shuttles at seven out of ten weddings of mine. So the situation of traffic or parking issues I don't foresee being any issue. The economic development that weddings bring to the town of Huntersville is much larger than I think people think. Not only yes it's bringing money into my pocket, I'm not going to lie I'm a wedding planner, and it brings money to Ron Randle for this property, but it brings it to the local hotels, the restaurants, the small businesses in the area. If you own a doughnut shop or a bicycle shop or an ice cream shop, the guests that are coming from out of town every weekend are going to be spending money in those businesses so it's highly encouraged that you would have this facility and bring people here and get them to be aware of Lake Norman and spend money in the small businesses. The other thing that I think is really interesting about Harper Grove that no one has touched on is that not only is Ron Randle wanting it for weddings and banquets, it's also for non-profits or charitable activities so it is better for the community than just for weddings.

Brandy Childs, 13232 Kennerly Drive, Huntersville, I have lived in Huntersville for about 7 years now. I'm actually off of Beatties Ford on Jim Kidd Road. I'm about a mile from where Harper Grove is going to be. I kind of just want to tell you a little bit about my background. I recently left a venue that I worked at for about 2 years in Rowan County.....amazing facility there. I wanted to kind of share with you my experience and I think one thing that no one has really touched on yet is the contract. Every client is going to sign a contract with Mr. Randle. In that contract Mr. Randle can kind of dictate what he wants

to allow or not allow. At the venue that I worked at a lot of that was dictated by the noise ordinance in the county that we were in. We had a stop time of 10:30 p.m. I think Mr. Randle has said that it would be 11 p.m. That will be dictated in that contract. One thing with contracts is that it's not just a 20-something bride and groom that are coming to sign that contract. A lot of times mom and dad are there for that decision too, so it's really a family affair and they are all there to be part of making this commitment, having a little skin in the game, for their wedding planning process and just want to point out that with those contracts along with that comes not only your deposit for the venue but also comes a damage deposit. Mom and dad want to get that damage deposit back. They've spent a lot of money for this wedding and if they could recoup some of that money when everything is said and done then they will do it. Our damage deposit at the venue I worked for was about \$1,000, so if that's something they can recoup they want to do it. If they don't adhere to what's listed in that contract, then they will lose that damage deposit. I just want to point out that Ron can dictate what he wants in that contract and if the client doesn't adhere by that then they may lose out on getting their damage deposit back or possibly having their rental canceled. That's just a point I wanted to bring up. Also reiterating what Erin had said, it's not a frat party. This is a classy event. There's more than I would say 60 percent of the guests that are coming are going to be family members. I think a lot of people have the perception that it's all 20 to 30 year olds that are just going to throw down and have a great big party. Most weddings, I would say 60 percent or more is family members. So it's people who are a little bit older, they might have a drink or two but they are surely not going to be throwing beer cans on the neighbors' property afterwards. Again that could result in losing that damage deposit.

Commissioner Julian said first of all we sit up here and we have two sides looking at this property. First of all I'm going to make a couple of statements. The Beatties Ford Road area is a great area. It's rural, but it's changing. We've approved.....not really approved, they are almost by default many residential home subdivisions down there. There's two or three going right now. So the rural character of Beatties Ford is going to change. I can't stop it. I legally can't stop it. It's going to change. Landowners have rights, too. With saying that, I sit here and look back and listen and read. What would be the best development on this property. My decision is yes, this banquet facility. Do I want 40 low end homes there. Do I want a charter school. If I lived beside it, I wouldn't. I'll right up front tell you I don't know Mr. Randle. I haven't met with him.....never met with him at all. I've been here in Huntersville since 1979. When we moved here there were 800 people. Now it's 52,000 people here in Huntersville. It's changing. It's going to change. There's no stopping it. The plan that the property owner or Mr. Randle, I don't know who came up with the plan, put forward does meet the rural aspect of what I think you guys would want down there. I think that as far as two police officers I think that's a little much and let me tell you Huntersville is not paying for these police officers. He'll have to hire them off-duty. We don't provide that. He's committing to hire them. I would like to see the Board change it to one per 100 rather than up to two max because you are putting un-do financial burden on him. Land rights.....Mr. Phillips owns 34 acres down there on the corner of where he sits and politics and he wants to develop that. Is that his right to develop it. Yes. He has rights, as long as he don't infringe on his neighbors. I heard what is this going to do for me. That's one of the words I heard out there. What you should be asking is does it infringe on my rights. And the answer is no. I want to recommend approval of this. I think if you look and he's going to sell it, plus the property beside you is going to get sold. That farm is going to get sold. Things are going to change. I wish I could stop it. I can't. I'm going to recommend approval on this.

Mayor Swain said is that a motion.

Commissioner Julian said yes, I will make the motion – Petition #SUP15-02 is a request by Ron Randle for a Special Use Permit to develop a banquet facility, Harper Grove, in the Rural zoning district. The

location of this property is 14532 and 14520 Beatties Ford Road. I recommend approval because in my view it meets the rural characteristics of the Beatties Ford Road area.

Commissioner Kidwell seconded motion.

Mr. Simoneau said the motion needs to also have findings of fact behind it.

Commissioner Julian said the findings of facts are that the facility meets the rural characteristics that are specified in the Beatties Ford Road Small Area Plan.

Mr. Simoneau said there's certain criteria that the applicant has to meet.

Commissioner Julian said what you are asking about if you will put that back up I will add that to my motion. What he's asking about involves the noise containing to 70 dB.....

Mr. Simoneau said the findings of fact if you look in your agenda packet you will see criteria and then findings. When the Planning Board made their recommendation of approval and it was a split vote, it was the facts.

Commissioner Julian said findings of fact include set up and break down from 8 a.m. until midnight, the event must comply with noise restrictions identified in the Town of Huntersville Noise Ordinance whether or not the property is located within the Town corporate limits, that the use will be located on a lot of at least 10 acres in size with a minimum of 30' of frontage, and I will include the rest of the findings.

Mr. Simoneau said so as the staff had put in the Staff Analysis those facts are the facts that you are suggesting support making a recommendation of approval.

Commissioner Julian said yes.

Commissioner Kidwell seconded motion.

Commissioner Kidwell said thank you to the 14 people that came in here and for your presentation. I read over this time and time again since we received the packet and as far as the business aspect I do have several years of service industry on my resume. A lot of what you voluntarily have agreed to I'm just going to say this, I wish you the best because that puts a lot of restrictions on you, but you did that to work with your neighbors. Things that they are saying about weddings.....I recently was at a wedding out of state, similar venue to this, it was in a rural area. There were about 180 people there. Most of them were shuttled in. There were probably about 60 cars. I think this type of venue in the area will help and as Commissioner Julian said, maintaining the rural aspect it's going to give us.....I'm not looking at the economicbut it's going to give us a break up from subdivision to subdivision to subdivision which is potentially going to happen down Beatties Ford Road with the already high traffic counts that we have and this could help break that up. You talk aboutrights and they want to sell their land. We have one person that is a part of this process who is looking at the type of people who want to buy his land. I lived in Atlanta for a number of years and people would sell land to the highest bidder. They did not care what went in there. I saw apartments go up, I saw 100 homes with lots the size of the foyer out here. We have someone who is still looking for the character of the land. It will be upon the landowner or the business owner to control whether it's two police officers out there. If the music does get loud I'm sure that the Huntersville Police Department will go out there. They need to be

a good neighbor, especially with folks who have animals. Someone mentioned fireworks. I know we've addressed fireworks in this, but loud noises – that thunder that we heard earlier sends one of my dogs into a closet. That happens. I would encourage you to definitely work with your neighbors.

Commissioner Neely said this is a tough one. I've read through this several times and listened to everybody tonight and I thank everyone who took time to come out tonight and express your opinions. Change is never easy. And unfortunately not everyone will always be happy. What makes this more difficult for me is the concern over animals because I like everybody in the room is an animal lover. I'm concerned and I listened to your concerns. After reading through once more and listening to your concerns I've decided that I will support this measure because I believe it's the best possible outcome versus additional subdivisions or a charter school. And again I thank everyone for coming tonight. I appreciate your comments.

Commissioner Phillips said I've tussled with this one real hard. My biggest thing is this is under quasi-judicial. We are a judge. Essentially you are looking at the judges up here. We have to listen to the facts and weigh them to what the intent of the ordinance is. That's why I am going to make my decision in favor. I think it gets into the property rights side of it but the applicant has met all the qualifications. In the spirit of what the ordinance is, they've met it and overwhelmingly. I feel compelled for you, but at the end of the night the facts are the facts.

Mayor Swain said Commissioner McAulay, I'm going to let you speak in just a minute but I received a text and I don't generally look at them but I wanted you to know something based on that exit. The storm that we heard earlier, I'm understanding that it hit pretty hard. So I'm asking you all when you leave to please be very careful. We have trees, power lines that are down. It looks like McCoy is closed between Hambright and Beatties Ford. There have been several fire alarms, too. So I am asking you, no matter how anything falls out for you in this, we look out for each other, so please be careful.

Commissioner McAulay said I would like to ask Mr. Simoneau a question. It was brought up that the application is probably invalid or they didn't use the word invalid but they said that the property ID was misidentified. It looks like that there was a correction in pencil. Are you familiar with what I'm talking about.

Mr. Simoneau said we actually have two applications, so the only application we put on there was just the one property owner. We actually have both property owners.

Commissioner McAulay said but they identified where it says Parcel ID number. I feel sure that this was checked out, I just want to verify that the change apparently on the last that 01541006 was changed to a 5. And that's the correct. These are the two correct parcels.

Mr. Simoneau said yes.

Commissioner McAulay said and then the comment was made that it was only signed by a partial land owner. Apparently this property is owned by several individuals. My guess is that it comes from an estate.

Mr. Simoneau said there are actually two applications for two properties. You can kind of see one property here and another one here and so we actually have an application for two properties. I believe what the person is talking about is when you go online I believe just one was scanned, not both of them but we do have both applications.

Commissioner McAulay said and one was signed representing the family. I just wanted to clarify before we vote. I do plan on supporting it. It seems to have met all of our zoning requirements with the idea that they have developed along the adjoining property lines and have an application that's approved through the various sections of our development ordinance. I would like to address the rural aspect. Some of you that have moved here, that's rural. That is not rural to me. I have lived here my whole life and you may not know but in the 40's and 50's actually Beatties Ford Road has always been a major traveled transportation to and from Charlotte and there was a bus line that took people into Charlotte to jobs....the Blue Goose was the name of it. I understand people wanting nothing to develop around your home. I also was in a protest petition a long, long time ago but I do think the property owners have a right to sell their land, a buyer has the right to develop it according to our zoning ordinance and our development ordinance.

Mayor Swain called for the vote to approve Petition #SUP15-02.

Motion carried unanimously.

Petition #TA15-01. Petition #TA15-01 is a request by LStar Management LLC to amend Article 7.10 of the Zoning Ordinance to permit Plazas adjacent to residential uses as an urban open space in the TOD-R Zoning District.

Commissioner Julian made a motion in considering the proposed amendment TA15-01 to amend Article 7.10 Urban Open Space of the Zoning Ordinance to permit Plazas adjacent to residential uses as an option in TOD-R zoning districts, the Town Board recommends approval based on the amendment and it is reasonable and in the public interest to amend the Zoning Ordinance because it is consistent with the policies of the Huntersville Community Plan and it's consistent with the Bryton Design Guidelines.

Commissioner Neely seconded motion.

Motion carried unanimously.

Petition #TA15-02. Petition #TA15-02 is a request by LStar Management LLC to amend Article 4 of the Zoning Ordinance to reduce rear yard setback for Attached House Building Types in the TOD-R Zoning District.

Commissioner Julian made a motion in considering the proposed amendment TA15-02 to amend Article 4 (Attached House Rear Yard) of the Zoning Ordinance, the Town Board recommends approval based on the amendment being consistent with the policies of the Huntersville Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it provides the development community multiple options for achieving higher densities and lot size choices that are key to creating vibrant, Transit-Oriented developments with different housing options.

Commissioner Kidwell seconded motion.

Motion carried unanimously.

Petition #TA15-03. Petition #TA15-03 is a request by the Town of Huntersville to amend Article 7.7.3(a) of the Zoning Ordinance to modify the residential lot tree requirements within the Transit-Oriented Development – Residential (TOD-R) zoning district.

Commissioner Kidwell made a motion in considering the proposed amendment TA15-03 to amend Article 7.7.3(a) (Residential Lot Trees) of the Zoning Ordinance, the Town Board recommends approval based on the amendment being consistent with the policies of the Huntersville Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because the amendment provides a greater development option to achieve the goals of the Transit-Oriented Development zoning districts.

Commissioner Neely seconded motion.

Motion carried unanimously.

Service Contract. The Main Street upgrades project is intended to provide additional capacity and an alternate route to NC 115 (Old Statesville Road) through Downtown Huntersville by upgrading Main Street and providing connections to NC 115 at Mt. Holly-Huntersville and 4th Street.

After discussions with Parsons Brinckerhoff, whom previously worked on the Main Street Improvements Project, a contract for the Environmental Permitting and Engineering Services was received by Engineering & Public Works for the Main Street Improvements (two-way pair) Project. Parsons Brinckerhoff, Inc. has previously worked on this project with the Town and is familiar with the permitting process required to secure the required environmental permit.

It is Staff's recommendation that the Agreement be accepted and a service contract executed so that the environmental permitting phase of the project can begin.

It is projected that the total cost for the project is \$280,346.53 with an anticipated completion date of 12 months from notice to proceed.

Commissioner Julian made a motion to authorize award of Project Development, Environmental and Engineering Services Contract for the Main Street Improvements (two-way pair) Project to Parsons Brinckerhoff, Inc.

Commissioner Neely seconded motion.

Commissioner Julian said this is one of the most very important decisions we are making tonight because this starts the implementation if you want to call it or at least the planning for the two-way pair. I'm excited about it.

Commissioner Phillips said this has been an ongoing conversation with me and Max and even the Town Attorney earlier over ownership of documents and I will not support this until that's changed.....Article 14 in this.

Commissioner Julian said Commissioner Phillips said would you accept a friendly amendment that will state that.....Max, can we have that change.

Max Buchanan, Public Works Director/Town Engineer, said I've got a change I can hand out. What I did is I printed the amendment. It's still ownership of document which is typical in the professional engineering industry. You are not really paying for a product, you are paying for their experience, their knowledge, their time in putting together those services. In other words all the documents and drawings are their intellectual property. This provision is typical in professional engineering. It's

actually professional conduct. It would be unethical for me to take their design and apply that to something else. As a registered licensed professional engineer I would not do that. I've got a provision that was included in the US 21/Gilead for STV. The language is a little bit different. It elaborates a little more. I think Bob is okay with either. We talked to PB and they looked at the modified language and they are okay with that. I don't know if it's going to make a difference for any of you but I'll be happy to pass it out and let you look at it.

Commissioner McAulay said so this is a modification to Item 14.

Mr. Buchanan said yes, it's Article 14. It doesn't eliminate the ownership of documentation, it verbatim matches the 21/Gilead language. It just substitutes PB the engineering firm with STV which is the US 21 Gielad with PB which is what we are considering.

Commissioner Phillips said we are paying \$280,000 for this and. When I built my house I bought the architect drawings. They are mine. I can use them over and over and over again. This here we are basically letting Parsons Brinckerhoff.....we can use copies of this intellectual property that we are paying for and they get to use it and continue to bill us for it. What if we do the Red Line down the road. What number of projects where roads are going to connect to the two-way pair are we going to pay Parsons Brinckerhoff again. So the intellectual property just because you say it's an industry standard, that don't mean it's right.

Mr. Buchanan said I think it's stood the test of time.....engineering is not a new profession. Again as a licensed professional I would not want to go to the effort and put forth and provide to an owner a design with my name and my seal on it that I am held responsible for, for the owner to then take that and give it to someone else to do something else with that I have no control over. I would say that we are not buying documents, we are paying \$280,000 for 320 man days of service. That's what we are paying for. We are paying them to invest time and effort and knowledge to put together this service.

Commissioner Julian said Commissioner Phillips I think and Max maybe you can help out here.....it's just like when you buy your house drawings from your architect or actually buy them online. You can buy your house drawings online. I can't take those drawings and replicate them and then resell them online. It's against the law. Is that somewhat what we are talking about. Can we write an agreement with them that says we can use them.

Mr. Buchanan said I think it's inferred. Again I think the language is to address the professional design aspect of it. The traffic data that we are giving them to incorporate into the design that we have accumulated we can use all that non-professional design data but if the data goes into a sealed drawing and standard drawings, calculations, that is their property.

Commissioner McAulay said I think when you buy a house plan you can easily take that house plan and put it somewhere else. I can understand you owning that. On a transportation plan, a plan for a road like Main Street here in Huntersville, that is specific. It has a specific width, all technical designs to it. The qualifications that really cannot be picked up in my opinion and put over across the railroad onto Church Street. There is a different grading, a different width, different measurements and you can't take some like Max said where it has been stamped for approval with a professional licensed engineer and design firm and put it across the railroad on Church Street and change the names of it and redesign it in Huntersville and use their same stamps

Commissioner Phillips said I'm not saying pick their plan up and move it somewhere else. I'm saying this Board has continuously talked about revitalization of downtown Huntersville and as this project moves forward as the two-way pair a lot of stuff is going to be put in motion where connector streets and side streets, building, the way they are going to set up, we may have to come back and use these same documents over and over again. If the rail line should miraculously ever come these same documents would be perfect to that so we are going to pay Parsons Brinckerhoff again and again and again for the same information.

Commissioner McAulay said no because we are going to have a different project.

Commissioner Neely said Mr. Buchanan I understand this is standard operating procedure for any reputable big design firm.

Mr. Buchanan said architectural from the AIA associations, from the American Society of Civil Engineers, DOT and all their negotiations with engineering firms.

Commissioner Neely said we've waited long enough to work on the downtown redevelopment I'm not going to try to reinvent the wheel on standard industry processes to prove a point.

Mayor Swain called for the vote to authorize award of Project Development, Environmental and Engineering Services Contract for the Main Street Improvements (two-way pair) Project to Parsons Brinckerhoff, Inc.

Motion carried 5 to 1, with Commissioner Phillips opposed.

Contract attached hereto as Attachment No. 7.

CONSENT AGENDA

Approval of Minutes – June 15 Pre-meeting. Commissioner McAulay made a motion to approve the minutes of the June 15, 2015 Town Board Pre-meeting. Commissioner Neely seconded motion. Motion carried unanimously.

Approval of Minutes – June 15 Regular Meeting. Commissioner McAulay made a motion to approve the minutes of the June 15, 2015 Regular Town Board Meeting. Commissioner Neely seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$672.60 and appropriate to the Police Department's insurance account. Commissioner Neely seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$508.80 and appropriate to the Police Department's insurance account. Commissioner Neely seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$500 and appropriate to the Police Department's insurance account. Commissioner Neely seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment appropriating funds received in the amount of \$7,639.61 from Lake Norman Charter School for the months of February 2015 and March 2015 to the Police Department's budget for overtime, benefits and vehicle cost. Commissioner Neely seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment appropriating funds in the amount of \$8,545.88 from Lake Norman Charter School for the months of April, May and June 2015 to the Police Department's budget for overtime, benefits and vehicle cost. Commissioner Neely seconded motion. Motion carried unanimously.

Budget Amendment – Admin/Finance. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$1,752.63 and appropriate to the Administrative/Finance Department's insurance account. Commissioner Neely seconded motion. Motion carried unanimously.

Call for Public Hearing – Petition #CODE15-01. Commissioner McAulay made a motion to call a public hearing for Monday, August 3, 2015 at 6:30 p.m. at Huntersville Town Hall on Petition #CODE15-01, a request by the Town of Huntersville to amend the Code of Ordinances Chapter 151: Flood Damage Prevention, for consistency with Federal Emergency Management Agency (FEMA) regulations. Commissioner Neely seconded motion. Motion carried unanimously.

Grant Agreement. Commissioner McAulay made a motion to authorize the Town Manager to execute Grant Agreement with Mecklenburg County and appropriate \$1,575,000 for the replacement and repair of the heating and air-conditioning equipment and system at HFFA. Commissioner Neely seconded motion. Motion carried unanimously.

Dectron Units – HFFA. Commissioner McAulay made a motion to approve purchase order for purchase of replacement Dectron units for HFFA with standard terms subject to modifications approved by the Town Attorney. Commissioner Neely seconded motion. Motion carried unanimously.

Petition #ANNEX15-01. Commissioner McAulay made a motion to adopt Annexation Ordinance #ANNEX15-01 to annex Centennial Phase 5 (14.80 acres) into the Town of Huntersville. Commissioner Neely seconded motion. Motion carried unanimously.

Ordinance attached hereto as Attachment No. 8.

Petition #ANNEX15-02. Commissioner McAulay made a motion to adopt Annexation Ordinance #ANNEX15-02 to annex Centennial Phase 6 (1.71 acres) into the Town of Huntersville. Commissioner Neely seconded motion. Motion carried unanimously.

Ordinance attached hereto as Attachment No. 9.

Interlocal Agreement – Fire Protection Services. Commissioner McAulay made a motion to adopt resolution approving Interlocal Cooperation Agreement with Mecklenburg County for fire protection services. Commissioner Neely seconded motion. Motion carried unanimously.

Resolution attached hereto as Attachment No. 10.

CLOSING COMMENTS

None

There being no further business, the meeting was adjourned.

DRAFT

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Janet Pierson, Town Clerk
Subject: Approval of Minutes - August 3 Pre-meeting

Consider approving the minutes of the August 3, 2015 Town Board Pre-meeting.

ACTION RECOMMENDED:

Approve minutes.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

Description	Type
 Draft Minutes	Backup Material

**HUNTERSVILLE BOARD OF COMMISSIONERS
PRE-MEETING MINUTES**

**August 3, 2015
5:45 p.m. – Town Hall**

GOVERNING BODY MEMBERS PRESENT: Mayor Jill Swain; Commissioners Melinda Bales, Ron Julian, Rob Kidwell, Sarah McAulay, Jeff Neely and Danny Phillips.

STAFF PRESENT: Assistant Town Manager Gerry Vincent, Finance Director Janet Stoner, Assistant to the Manager Bobby Williams, Public Works Director/Town Engineer Max Buchanan, Police Chief Cleveland Spruill, Town Attorney Bob Blythe, Planning Director Jack Simoneau, Town Clerk Janet Pierson.

Mayor Swain pointed out that this discussion is on the heels of the fact that Mecklenburg County decided to close the Waymer Center, which generated conversation about what's going on in that area.

Dr. Dan Morrill of the Charlotte-Mecklenburg Historic Landmarks Commission reviewed plans for the Torrence Lytle School:

1. Remove asbestos and other environmental contaminants in all buildings.
2. Stabilize original building.
3. Place all buildings on the market for at least one year in hopes of attracting developers.
4. If no developer is forthcoming, HLC will demolish all buildings except original building and restore original building for resale.

Estimate for restoring original building and demolishing wing buildings and cafeteria: \$2,573,175

Total reimbursement to the Historic Landmarks Commission: \$2,711,030

Amount of land: 2.44 acres

Dr. Morrill suggested the Town could partner with the HLC and if interested in purchasing the property the HLC would be willing to work out staggered payment plan.

Commissioner McAulay suggested that the HLC move ahead with restoration of the original building without waiting a year, as outlined in No. 3 and that the HLC work with the Town Manager on an agreement that would give the Town the right of first refusal or some option to purchase the restored building.

Following further discussion, it was the general consensus of the Town Board to request the Town Manager to schedule a work session to discuss the Torrence Lytle School.

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

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Janet Pierson, Town Clerk
Subject: Approval of Minutes - August 3 Regular Meeting

Consider approving minutes of the August 3, 2015 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve minutes.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

Description	Type
 Draft Minutes	Backup Material

**TOWN OF HUNTERSVILLE
REGULAR TOWN BOARD MEETING
MINUTES**

**August 3, 2015
6:30 p.m. – Town Hall**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall at 6:30 p.m. on August 3, 2015.

GOVERNING BODY MEMBERS PRESENT: Mayor Jill Swain; Commissioners Melinda Bales, Ron Julian, Rob Kidwell, Sarah McAulay, Jeff Neely and Danny Phillips.

Mayor Swain called for a moment of silence.

Mayor Swain led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS

Mayor Swain

- The MTC did not meet in July.
- National Night Out is tomorrow night at Northcross.
- Taste of Lake Norman is August 6.
- Cindy Alexander will perform at The Pearl on August 7 to benefit a dog rescue entity.

Commissioner Bales

- The Lake Norman Transportation Commission did not meet in July. The next meeting is August 12.

Commissioner Julian

- Commended the Public Works Department for the sidewalk being installed on Stumptown.

Commissioner Kidwell

- The next Olde Huntersville Historic Society meeting is August 5. Dr. Virginia Cornue will be the guest speaker.
- A Scottish Tea Party honoring May Davidson will be held at Rural Hill on August 23.
- Helping Others Help Themselves (H.O.H.T.) will host workshop "How to Have a Killer Interview" on August 25 at the Lake Norman Chamber.

Commissioner McAulay – No Report.

Commissioner Neely

- Attended the Lake Norman EDC Board of Directors with Commissioner Bales on July 23.
- The USTA NC Junior Team Tennis State Championships were held July 17-19. The event brought in 674 players and 92 teams, making it the largest Junior event in state history.
- The Lake Norman Chamber Board of Directors did not meet in July.

Commissioner Phillips

- No report from Arts & Science Council.
- Encouraged everyone to shop local.

Mayor Swain recognized County Commissioner Pat Cotham who was present at the meeting.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

None

AGENDA CHANGES

Commissioner Neely made a motion to add Item G to the Consent Agenda – Direct the Town Manager to develop a schedule for a workshop for the Town Commissioners to discuss the Torrence Lytle School.

Commissioner Julian seconded motion.

Motion carried unanimously.

Commissioner Bales made a motion to adopt the agenda, as revised.

Commissioner Julian seconded motion.

Motion carried unanimously.

PUBLIC HEARINGS

Mayor Swain recognized Planning Board members present: Bill Walsh, Hal Bankirer and Dan Boone.

Petition #TA15-04. Mayor Swain called to order continuation of public hearing on Petition #TA15-04, a request by the Huntersville Planning Board to amend Article 7.4 of the Zoning Ordinance in regard to calculating specimen tree save mitigation requirements.

Brad Priest, Senior Planner, said this was initiated by the Planning Board, so they have requested to come and just make a statement and give some history on how this application came to fruition.

Hal Bankirer, Planning Board Chairman, said as this is an initiative of the Planning Board, as Chairman I have been asked to make a few introductory remarks prior to the public hearing that follows.

In September 2013 the Planning Board approved a multi-family development to be built in The Park Huntersville. It did so, but reluctantly. The board's reluctance primarily related to the trees slated for removal. The sketch plan called for razing the entire 14 plus acres. That amounted to a total of 582 trees. Of those 582, 47 were specimen trees or trees at least 24" in diameter. Because the applicant decided to remove the specimen trees, the current ordinance requires that the mitigation for those trees is 30 percent of the 47 or 15 trees. The cost of 15 saplings and planting labor could be placed into the Town's Tree Fund for a total of \$2,835 or the developer could plant 15 saplings, young trees that in 20 or 30 years might reach specimen size. The impact of entirely razing the property however was troubling since 535 non-specimen trees were included and not one was smaller than 8" in diameter.

Some had diameters between 20" and 23", just shy of specimen size. The estimated average diameter of these 535 trees was between 15" and 18". You can do the math yourself. We've got 15 2" saplings or 30" of tree to replace 1,200" of specimen trees and about 10,000" of the rest. The Planning Board felt this was imbalanced and continued progress of this sort was not sustainable.

After internal discussions in early 2014, we solicited your interest in considering changes to portions of the Tree Save Ordinance. With your interest, the Planning Board unanimously voted to create the subcommittee to examine the Town's Tree Save Ordinance with an eye towards determining if it was fair, if it contributed to the Town's quality of life and how it compared to other municipalities in Mecklenburg County. As you will see from the presentation that follows, Huntersville has the least restrictive Tree Save Ordinance of all the municipalities in the county and if not addressed, especially as we diligently work to develop and expand our tax base and grow the town, it's possible we will negatively impact the quality of life of our citizens and our land mass. We invested a great deal of time in arriving at our judgment based recommendations. We explored many approaches. We consulted with specialists and experts as well as appropriate national level organizations. We believe the ordinance change is fair to the Town's residents and potential companies and developers alike, better protects the character of our Town, is environmentally sound, and puts Huntersville on track to being a better partner in the region's push to protect its tree canopy. I think you may know that Charlotte's goal is 50 percent.

The Planning Board unanimously recommends its future approval. Before turning to Brad, the board wants to thank those members who served on the subcommittee for the immense amount of time and effort invested in this – Joe Sailors, Janet Spain and Linda Kidd, citizens who were members of the previous Tree Save Subcommittee and who graciously volunteered their time and effort to serve again and provided much needed continuity and direct citizen impact, and Brad Priest of the Planning Staff whose patience, humor and expertise were needed, especially the patience and the humor.

Mr. Priest entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Attachment No. 1.* The Staff Report and Mr. Bankirer's comments really kind of set the stage for the background of why we are here in regard to the purpose for the application. I'm going to focus my presentation really on what the proposed amendment would do.....what the change is technically.

Here looking at the screen is the current specimen tree save requirements. It varies based on the zoning district that you are in. For instance if you are in the Rural zoning district, you have a 50 percent tree save requirement or in other words if you have ten trees that are over 24" in caliper and large maturing or 12" in caliper if it's a small maturing tree like a Dogwood or a Red Bud or something like that, then you have to save five of those is what the ordinance says. However, when you can't meet that specimen tree save requirement, you can't meet those percentages, the ordinance has a little special case statement underneath the requirement that says essentially in special cases you can go to the Planning Board and seek approval to essentially contribute to a tree fund bank that pays for the installation of the trees that they take down. And again this is over and above what the ordinance requires. Long story short, what that means is if you are required to save 5 trees and you go over that, you can mitigate the five trees with just five newly planted trees – one tree to one tree.

The Planning Board requested that staff go into a little bit of detail, do some research and find out how other municipalities, how tree organizations in the state and in other areas, calculate the value of a tree. How can we change our ordinance to make sure that we are really calculating what an existing mature tree is worth. Going through the International Society of Arborists, the Urban Forestry Council, the North Carolina Forest Service, the NC Cooperative Extension Service, there really wasn't a consensus.

There was mention of the CTLA (Council of Tree and Landscape Appraisers) method. That was a method that measured the cross-sectional area of the trunk of the tree and had a complex calculation based on the tree, the width, the cost of the tree, what kind of tree it was, the health of the tree. And in looking at that and talking about that method with the Planning Board, it seemed to be a little bit unfeasible to use that in a land development ordinance. One 30" specimen tree using that CTLA method mentioned by the Forestry Council came up to a \$15,000 tree mitigation cost. So that didn't seem feasible in a land development application. In speaking to the Forest Service they agreed and recommended that would be more of when you have a tree in an urban setting and it's part of the community, how do you assess the value of that tree, not necessarily the value of a tree in the woods that's being taken down for development. So they didn't recommend that.

Going to adjacent communities and looking how they measure their mitigation techniques, how they assign value to the trees, you will see from that pie chart there that most of them did it by a caliper method or a DBH – diameter at breast height method. So essentially they would measure the tree at breast height and if it's 30" in diameter they would say okay, the caliper that you take down over the ordinance if it's 30" then you have to replace 30" in some shape or form. That was quite common. Other municipalities did a similar technique but didn't necessarily do the one to one ratio that many did.

With that knowledge we took that back to the Planning Board, shared it with them. As Hal mentioned the committee was formed, we looked at it and drafted some language and now we are in the text amendment application phase. An example of the proposed language would be this, again existing regulation if you remove three 24" caliper trees, those are specimen trees, above the requirements of the ordinance, you are not meeting the requirements of the ordinance, over and above those three you have to replace those three individual trees. The 2" caliper trees we don't assign a cost. There's no statement of a fee in the ordinance. So when we say they can contribute to the tree fund bank, what we are really talking about is them submitting the cost of a 2" caliper tree and the market standard is about \$250. So when you see the money, the dollar sign, in this presentation it's not in the ordinance but it's based on this is the cost from a market value they are going to have to contribute to cover that amount of caliper. So this is the existing ordinance. The new ordinance would change that to a caliper percentage. Going to the caliper to caliper ratio, one to one, the Tree Save Committee thought that those costs were a bit too high, so what they wanted to do was make them a little bit more reasonable, cut them down a little bit, and they came up with the percentage of 30 percent of the caliper of the tree. They thought that was more reasonable. We had Art Van Wingerden of Metrolina Greenhouses on the committee. He gave a development perspective and he thought that the cost of caliper to caliper might be a concern for the development community, so they wanted to reduce that a little bit. So therefore if you had three 24" caliper trees, you would have 72" of caliper. The current ordinance text would be 30 percent of that caliper would have to be replaced so that's 22 caliper inches. And that translates again into planting or contributing for eleven 2" caliper trees.

We did a little graph and compared different facilities that have come into the town and were permitted and they had to come in and do tree mitigation. They went to the Planning Board. This is just an example of what they did pay and then highlighted is the 30 percent and what they would have paid if this language proposed was in place. So ABB you will notice there the three specimen trees \$852. If this ordinance were to be passed it would be \$3,067 in order to mitigate that. And then the Park Huntersville, that's the one that was done right there next to the Earth Fare off of Gilead Road, that new apartment complex which was mentioned, again around \$4,000 was the current ordinance policy and then that would go up to \$14,400.

Just a little bit of background, what we tend to see from Staff's point of view when an application is submitted and we find some nice trees on the site, some nice existing trees, we say what can we do to save these trees. Can we design the site in a way for some creative grading, some engineering that could be done. But they look at the mitigation and if they see all they need to do is submit \$250 for that one nice majestic 60" tree, well the answer becomes quite clear and we lose the incentive perhaps to design in a way that saves these nice mature specimen trees. So from a staff perspective that's kind of how we recommended the approval of this change to try to increase the contribution even if it can't be done like in ABB's perspective, such a big facility, such an intense facility, those trees would have to go. When that's the situation they go, but at the same time there's contribution that significant amount of trees can be planted elsewhere in the community to make up for that loss. So the staff recommended approval of the text as it is now.

Mayor Swain said I just drove back from Connecticut so I drove through Connecticut, Virginia, Pennsylvania, West Virginia, Maryland, New Jersey and in many of the communities where we stopped we were always commenting about the trees because it makes an impression on people from out of state when you drive into a community and see that the community has cared enough to save the trees.

Commissioner Julian said I was just looking through the other town requirements – Cornelius and Davidson and the way the chart reads is right now those towns require 100 percent of the cumulative caliper to be replaced for equal to or greater to, am I reading the chart right.

Mr. Priest said that's correct. That's our understanding is that it's a one to one ratio.

Commissioner Julian said and we are down to 30 percent, that's the proposal is 30 percent.

Mr. Priest said that's correct.

Commissioner Julian said so for Davidson and Cornelius they are at 100 percent.

Mr. Priest said 44 percent of the ones we surveyed were actually at the one to one ratio, 100 percent.

Commissioner Julian said there's a big difference. I go down Gilead Ridge and some of the places where trees have been put in the public spaces and they are starting to mature, they are really looking nice. I think the difference between Cornelius, Davidson and Huntersville is really great. I'd love to see the Board increase that from 30 percent to maybe 50 percent. Even Charlotte has a dynamic you would end up definitely reforesting it or it looks like for a 24" tree there would be two new trees. I think 30 percent is kind of low. I'd like to hear what the Board says about that.

Commissioner Neely said first of all I would like to commend the Planning Board. I know in the almost 5 years that I was on the Planning Board this was discussed on numerous occasions, never any conclusion to the discussion, it continued and now almost 3 years later we do have something and I know it took a lot of time and effort on your part to get here. I certainly appreciate it. I am quite frankly in Commissioner Julian's camp at this point. I think one of our most valuable assets as a community are the trees that we have within our community and while I'm not in favor of moving from where we are right now at a very meager number to a one to one, I also believe that 30 percent is a low number and a low threshold and I would like to see that number moved up from 30 percent.....I don't think it needs to be any higher than 50 percent. I'm certainly open to some kind of discussion, but 30 percent is moving in the right direction. Quite frankly I just don't feel it's enough.

Commissioner Phillips said one of the graphs you had that had the breakdown where it's Rural.....when you've got the Rural at 50 percent and Transitional 35 percent, General Neighborhood and Residential at 10 percent and Commercial and Mixed-use at 30 percent. Wouldn't you think that General Neighborhood – Residential would want more trees than Commercial where they would be a hindrance.

Mr. Priest said the purpose of the transition from 50 to 35 to 10 is based on the intensity of the development. When you talk about Rural, you are going to have very low intensity development. You are going to have more open space and so you are going to be able to save more trees and therefore the requirement would be higher. When you get to Transitional and then go down to General Neighborhood, you're a lot more intense, you allow more houses per acre and then so you are going to disturb more land and you're going to cut down more trees and therefore that's why it shifts the way it does.

Commissioner Phillips said wouldn't you want more trees like in the General Neighborhood than you would in your Commercial. Am I understanding that right.

Mr. Priest said I would say you certainly want as many trees as you can have but when you start to develop intensely you start disturbing a lot more area and that lessens the ability to save those trees and that's why you can't. And I used ABB as the example. With such a big building and the grade having to make a nice flat surface for that, you have to really clear-cut a lot of land, so that's why the Commercial and the Neighborhood Residential, when you have that intense development you're just not going to be able to and that's why there's some relief given in the ordinance. I would say there's relief. They can't save 50 so we can't require that they save 50.

Commissioner Phillips said did you do any kind of cost analysis to find out what a 24" tree is worth.

Mr. Priest said the CTLA method is the only consistent method that we found from agencies that measured the value of a tree, an existing mature tree. But again it was very expensive and the experts that we talked to said that that measuring tool and technique was not really for land development. It was really more intended for urban settings where you have an established tree and what it contributes to the community, not necessarily in an open field and wood setting. There's different opinions on what the value of a tree is.

Commissioner Julian said it's what the specimen is.

Commissioner Kidwell said looking at this you're talking about 30 percent compared to where we are at now. Those numbers speak for themselves. I think that's a great spot to start at. I'm definitely looking forward to more discussion with the other commissioners on this. It's food for thought. When you hear or see that towns like Cornelius and Davidson are saving tree to tree and still putting in a lot of residential development, we need to look at that. I don't know if you are aware or if the Planning Board members are aware of something called Tree Town USA. It's an award given to certain towns whose tree mitigation saving rate is high. Matthews is one of those towns. Just to throw that out there.....it would be nice if we start on that path and eventually get there. I'm not saying get there in one swoop, but definitely get there.

Mayor Swain said it disturbs me to hear that the only value of a tree is what a sawmill will pay because I have logged on treescharlotte.org which is an initiative to expand and protect Charlotte's tree canopy. These are things that we teach our kids in schools and we have for a while, but the benefits from one

tree are significant. And to take from their website trees clean our air, they help with storm water run-off, they reduce our energy usage, they cool the streets, parks and homes and then we have the quality of life issue. If you all read the headlines last week we are always on alert with air quality in this region with the incredible growth that we have with air quality, that's not just a headline, it also pertains to funding for roads and federal funding requirements. The tree canopy links to all of these things and for us to be talking about this and for the Planning Board to take the initiative on this is not just a tree hugger movement here, it's for our community. And for us to ignore that I think would be irresponsible. And I commend you for this because we were ahead of the curve years ago with Janet Spain and that group and we have fallen by the wayside, so it's time for us to come back and I appreciate that.

Commissioner Neely said all of my business career I have always been in favor whenever you are making changes of doing it in phases. I'm kind of catching on to Commissioner Kidwell and where he was. Quite frankly where we are now is an embarrassment. I don't think anyone can defend where we are right now in our tree mitigation, at least not to me. And certainly moving to 30 percent is a quantum leap from meagerness to 30 percent. What I would like to see is that we move forward with the 30 percent with the proviso that it's revisited within 2 years and we look at, if indeed this gets adopted, where we are 2 years later and if it's warranted at that time, then we move forward with another phase. But I think for us to do nothing doesn't say much for us as a community.

Commissioner Julian said Commissioner Neely I'm going to agree but disagree a little bit. By adopting what is in front of us the Rural just went from 50 percent down to 30 percent. I'd like to see the Board start at a minimum of 40 percent. I think 40 percent is definitely still way too low but I think it's definitely a starting place. If you adopted the 30 percent you would be bringing down our ordinance actually for the Rural and other areas. So I'd like to see this Board support 40 percent in the future. The other thing is tree cost. As an enterprising young man back when I was 18 years old I got this wild hair that I heard a walnut tree was worth about \$10,000 and this is really for Commissioner Phillips down there. And so I did some research and the walnut tree was worth about \$10,000 back then. They used it to make paneling. I went about trying to call and see if somebody would give me a walnut tree or let me broker it for them when I was 18. I'm going to tell you no one would give me a walnut tree or let me broker it for them. Where I'm building my new house down on Maxwell has a walnut tree on it. I now have a walnut tree that since I was 18 years old I've always wanted. When it looks at the cost for the specimen of the tree you've got to really look to the use and the cost can be very wide or the tree worth can be very wide. My family laughed at me because I ran up my mother-in-law's phone bill out the roof calling other states, and this was way before the internet, trying to find out about walnut trees but also to buy them. I think 40 percent would be a minimum – still an embarrassment to me to Huntersville to say we are not as good as Cornelius, we're not as good as Davidson, we're not as good as other areas. When developers come in, they come to make money. Don't deny that. And the numbers I saw, ABB we are talking meager numbers there as far as dollars. As you guys know I will not be here this next year but we are as good as Cornelius, we are as good as Davidson and tree canopies are essential to a quality of life.

Commissioner Neely said can you go back to that one schedule that had the percentages and the dollars. What you've got here in yellow is the 30 percent threshold and proposal and 40 percent obviously is right above it, so essentially if we went from 30 to 40 percent on these three different projects, these are the numbers we would be looking at.

Mr. Priest said that's correct.

There being no further comments, Mayor Swain closed the public hearing.

Petition #CODE15-01. Mayor Swain called to order public hearing on Petition #CODE15-01, a request by the Town of Huntersville to amend the Code of Ordinances Chapter 151: Flood Damage Prevention, for consistency with Federal Emergency Management Agency (FEMA) regulations.

Meredith Miller, Planner I, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 2.* This request is an amendment to the Huntersville Code of Ordinances, not the Zoning Ordinance. An amendment to the Code of Ordinances is strictly a Town Board function and does not require a Planning Board recommendation. As required we are here tonight for a public hearing. An item will be on the August 17 agenda for final action.

Essentially the changes are requested by FEMA in response to a revision of their flood insurance map, which will become effective on September 2, 2015. The other amendments to this request are minor clerical changes including clarifying some definitions, updating FEMA form numbers, adjusting the floodplain administrator and changing some state agency names. It's critical that these changes are made prior to September 2 for Huntersville to remain a participating community in the National Flood Insurance Program. Staff recommends that the Board approves this item when it comes up for final action on August 17.

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

OTHER BUSINESS

Petition #R15-01. Petition #R15-01 is a request by Ernie and Roberta Lee to rezone 0.53 acres at 15412 Old Statesville Road from Highway Commercial to Special Purpose – Conditional District allowing most SP uses, including a wood cutting operation.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 3.* The Planning Board unanimously recommended approval of this.

Commissioner Julian made a motion in considering the proposed rezoning application R15-01, Lee's Firewood, the Town Board recommends approval based on the amendment being consistent with the 2030 Community Plan. It is reasonable and in the public interest to approve the rezoning plan because with proposed buffers the rezoning will not be out of character with the surrounding area and the property can be easily redeveloped and there is no TIA required.

Commissioner Neely seconded motion.

Motion carried unanimously.

Petition #R15-02. Petition #R15-02 is a request by Chick-fil-A, LLC to update and amend their conditional rezoning plan subject to the current Huntersville Zoning Ordinance, on approximately 1.3 acres located at 16915 Statesville Road.

Brad Priest, Senior Planner, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 4.*

Commissioner Julian made a motion in considering the proposed rezoning of Petition R15-02, Chick-fil-A expansion, located on Statesville Road, the Town Board finds that the rezoning is consistent with the

Town of Huntersville 2030 Community Plan and other applicable long-range plans. We recommend amending the conditional rezoning plan for Chick-fil-A as shown in Rezoning Petition R15-02. It is reasonable and in the public interest and allows for faster movement through Chick-fil-A.

Commissioner Phillips seconded motion.

Motion carried unanimously

Commissioner Kidwell said in regards to the parking at the back. In their plan they've got a walkway there. Will three or four spots be put in for the safety of the staff.

Max Buchanan, Public Works Director/Town Engineer, said we've had some discussions and we'll kind of layout some delineated parking on Caldwell Creek.

CONSENT AGENDA

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$5,462.05 and appropriate to the Police Department's insurance account. Commissioner Bales seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$500 and appropriate to the Police Department's insurance account. Commissioner Bales seconded motion. Motion carried unanimously.

Budget Amendment – Electric. Commissioner McAulay made a motion to approve budget amendment transferring \$100,000 from Capital Outlay to Other Electrical Expenditures. Commissioner Bales seconded motion. Motion carried unanimously.

Pactiv Electric Service Revision. The initial 10-year electric service contract with Prairie Packaging, now Pactiv, will expire June 30, 2016. At the request of the customer a coincident peak electric rate schedule was developed based on their electric usage, load factor and operating characteristics. This rate will be reviewed annually to be consistent with the original Agreement dated September 8, 2005. The customer has asked that the electric service contract addendum be approved at this time so they are able to appropriately budget for electric costs in 2016. It is recommended that the industrial on-peak electric rate schedule OP-4 be adopted to reflect future electric costs and previous rate schedule HLFLI be closed.

Commissioner McAulay made a motion to approve the Industrial On-peak Electric Rate Schedule OP-4 and authorize the Town Manager to execute the Electric Service Contract Addendum. Commissioner Bales seconded motion. Motion carried unanimously.

Cancel September 7 Meeting. Commissioner McAulay made a motion to cancel the September 7, 2015 Regular Town Board Meeting due to the Labor Day holiday. Commissioner Bales seconded motion. Motion carried unanimously.

CLOSING COMMENTS

None

There being no further business, the meeting was adjourned.

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Janet Stoner/Chief Spruill
Subject: Budget Amendment

Recognize insurance revenue (103820.9999) in the amount of \$420.12 and appropriate to the Police Department's insurance account (105100.0452).

ACTION RECOMMENDED:

Approve Budget Amendment.

FINANCIAL IMPLICATIONS:

Additional revenue in the amount of \$420.12.

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Janet Stoner/Michael Jaycocks
Subject: Budget Amendment - FY 2014-15

Recognize revenue received from rental of athletic fields (10-3509.9999) & civic buildings (10-3508.9999) and appropriate to Parks & Recreation Maintenance of Building & Grounds (10-6200.0651) in the amount of \$12,000.

ACTION RECOMMENDED:

Approve Budget Amendment.

FINANCIAL IMPLICATIONS:

Recognize additional revenue.

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Janet Stoner/Greg Ferguson
Subject: SL362 Property Tax Refunds

Attached is Report 41 from Mecklenburg County of SL362 refunds. The report contains 12 refunds. To date the Town of Huntersville has processed 9,055 refunds for a total of \$255,026.69 (\$232,075.32 without interest).

ACTION RECOMMENDED:

Approve SL362 property tax refund report.

FINANCIAL IMPLICATIONS:

Decrease in revenue.

ATTACHMENTS:

Description	Type
☐ Tax Refund Report	Cover Memo

Tax Year	Bill Number	Parcel #	Source Type	Adjustment #	Adjustment Reason	Date of Adjustment	Refund Recipient Name	Address Line 1	Address Line 2	City	State	Zip Code	Payment Date for Interest Calculation	Total Refund (\$)	Total Interest to Pay if mailed on or before 8/28/2015 (\$)
2014	0008072987-2014-2014-0000-00	01729310	REI	436783	SL 362 Adjustment	5/2/2015	KISSIAH, ROBERT T	310 BETHWYCK CT		MATTHEWS	NC	28105	1/6/2015	0.61	0.02
2011	0001464672-2011-2011-0000-00	01102141	REI	433957	SL 362 Adjustment	5/2/2015	LCV INVESTMENTS LLC	PO BOX 1660		DAVIDSON	NC	28036	1/6/2012	7.35	1.34
2011	0001488205-2011-2011-0000-00	01904205	REI	433959	SL 362 Adjustment	5/2/2015	POST, RUSSELL A	6514 GILEAD RD		HUNTERSVILLE	NC	28078	1/6/2012	109.89	20.02
2012	0001488205-2012-2012-0000-00	01904205	REI	434572	SL 362 Adjustment	5/2/2015	POST, RUSSELL A	6514 GILEAD RD		HUNTERSVILLE	NC	28078	3/29/2013	113.75	13.74
2013	0001488205-2013-2013-0000-00	01904205	REI	435205	SL 362 Adjustment	5/2/2015	POST, RUSSELL A	6514 GILEAD RD		HUNTERSVILLE	NC	28078	2/24/2014	112.91	8.51
2014	0001488205-2014-2014-0000-00	01904205	REI	435910	SL 362 Adjustment	5/2/2015	POST, RUSSELL A	6514 GILEAD RD		HUNTERSVILLE	NC	28078	1/6/2015	118.65	3.80
2011	0001481722-2011-2011-0000-00	01711511	REI	433958	SL 362 Adjustment	5/2/2015	RORRER, VICTOR M	PO BOX 1509		HUNTERSVILLE	NC	28070	1/6/2012	41.53	7.57
2012	0001481722-2012-2012-0000-00	01711511	REI	434571	SL 362 Adjustment	5/2/2015	RORRER, VICTOR M	PO BOX 1509		HUNTERSVILLE	NC	28070	1/8/2013	41.53	5.47
2013	0001481722-2013-2013-0000-00	01711511	REI	435204	SL 362 Adjustment	5/2/2015	RORRER, VICTOR M	PO BOX 1509		HUNTERSVILLE	NC	28070	1/7/2014	41.53	3.40
2014	0001481722-2014-2014-0000-00	01711511	REI	435909	SL 362 Adjustment	5/2/2015	RORRER, VICTOR M	PO BOX 1509		HUNTERSVILLE	NC	28070	1/6/2015	44.83	1.44
2014	0008067410-2014-2014-0000-00	01927423	REI	435912	SL 362 Adjustment	5/2/2015	SHAW, PAUL D	9927 CIMARRON CLOSE LN		HUNTERSVILLE	NC	28078	1/6/2015	46.05	1.48
2012	0001476086-2012-2012-0000-00	01516434	REI	434570	SL 362 Adjustment	5/2/2015	Z L METZ HOMES LLC	PO BOX 1147		HUNTERSVILLE	NC	28070	3/29/2013	2.93	0.35
														681.56	67.14

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Bobby Williams, Assistant to the Manager
Subject: Adopt 2015 Mecklenburg County Multi-Jurisdictional Hazard Mitigation Plan

Request is to adopt Resolution for 2015 Mecklenburg County Multi-Jurisdictional Hazard Mitigation Plan. Every five years, communities are required to identify potential natural disasters and actions local governments can take to mitigate them. Should a disaster occur and the town seek reimbursement from FEMA, those disasters must be included in the adopted plan. We have worked diligently with the staff of Charlotte-Mecklenburg Emergency Management, various city and county departments, the towns and consultant AECOM to make sure we have addressed everything. This review and analysis also included input from two public meetings, with a third being held recently in Matthews to talk about the draft plan with those in attendance. The second of the three meetings was held in Huntersville and the plan has had input from several Huntersville residents. As part of the plan, the town has adopted mitigation actions aimed at preparation for natural disasters. Responsibility for the annual review of the plan will rest with the Town Planning Dept per this resolution.

The plan was approved by the State in May and sent to FEMA for final review and approval. We have to approve within 45 days of our final public meeting, which was held August 5th.

What is hazard mitigation planning?

Hazard mitigation planning is a process for State, local, and Indian Tribal governments to identify policies, activities, and tools to implement mitigation actions. Mitigation is any sustained action taken to reduce or eliminate long-term risk to life and property from a hazard event. This process has four steps:

- 1 - Organizing resources;
- 2 - Assessing risks;
- 3 - Developing a mitigation plan; and
- 4 - Implementing the plan and monitoring progress.

ACTION RECOMMENDED:

Adopt Resolution

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

Description	Type
☐ Huntersville 2015 HMP Resolution	Resolution

**HUNTERSVILLE BOARD OF
COMMISSIONERS
-RESOLUTION OF ADOPTION**

**MECKLENBURG COUNTY
MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN**

WHEREAS, the citizens and property within Mecklenburg County are subject to the effects of natural hazards that pose threats to lives and cause damage to property, and with the knowledge and experience that certain areas of the county are particularly vulnerable to flooding, winter storms, hurricanes and tropical storms, severe thunderstorms and tornadoes, droughts, wildfires and earthquakes; and

WHEREAS, the County desires to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Section I Part 166A of the North Carolina General Statutes (adopted in Session Law 2001-214 ---Senate Bill300 effective July 1, 2001), states therein in Item (a) (2) "For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act"; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five year cycle; and

WHEREAS, Mecklenburg County has performed a comprehensive review and evaluation of each section of the previously approved 2005 Hazard Mitigation Plan and has updated said Plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management.

WHEREAS, it is the intent of the Mecklenburg County Board of Commissioners to fulfill this obligation in order that the County will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the County;

WHEREAS, the Town of Huntersville actively participated in the planning and update process of the Mecklenburg County Multi-Jurisdictional Hazard Mitigation Plan and has fulfilled all the requirements pertaining to jurisdictions participating in a multi-jurisdictional plan as established by FEMA;

NOW, therefore, be it resolved that the Town of Huntersville Board of Commissioners hereby:

1. Adopts the 2015 Mecklenburg County Multi-Jurisdictional Hazard Mitigation Plan; and
2. Separately adopts the sections of the plan that are specific to the Town of Huntersville;
3. Vests the Town of Huntersville Planning Department with the responsibility, authority, and the means to:
 - (a) Inform all concerned parties of this action.
 - (b) Develop an addendum or annex to the Mecklenburg County Multi-Jurisdictional Hazard Mitigation Plan as warranted by the unique situation of the Town; (c) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map and identify floodplain areas, and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent exacerbation of existing hazard impacts.
4. Appoints the Town of Huntersville Planning Department to assure that the Hazard Mitigation Plan is reviewed annually and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any substantial revisions or amendments to the Plan (those that result in fundamental changes to the Plan) are developed and presented to the Town of Huntersville Board of Commissioners for consideration.
5. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan and the addendum and/or annex the Town of Huntersville to said Plan.

Adopted on _____ .

Attest:

Town Clerk

SEAI;.

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Greg Ferguson, Town Manager
Subject: Tax Collector's Settlement Statement

Receive Tax Collector's Settlement for Fiscal Year 2015.

ACTION RECOMMENDED:

Receive Tax Collector's Settlement

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

	Description	Type
□	Tax Collector's Settlement	Backup Material



MECKLENBURG COUNTY

Office of the Tax Collector

To: Greg Ferguson, Huntersville Manager
From: Neal L. Dixon, Tax Collector
Date: July 17, 2015
Subject: Tax Collector's Settlement for Fiscal Year 2015

Pursuant to the provisions of N.C.G.S. 105-373, this memorandum is the Tax Collector's report of settlement to the Huntersville Town Commission for fiscal year 2015 (tax year 2014).

Total FY 2015 Tax charged to the Tax Collector for Collection: \$18,815,452.85

Real Estate & Personal Property Tax

<u>Net Levy</u>	<u>Collected</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
\$18,807,734.92	\$18,715,787.60	\$119,521.26	99.51%

Registered Motor Vehicle Tax

<u>Net Levy</u>	<u>Collected</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
\$ 7,717.93	\$ 7,766.87	\$272.37 *	100.63%

Combined Total

<u>Net Levy</u>	<u>Collected</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
\$18,815,452.85	\$18,723,554.47	\$119,793.63	99.51%

*Note: The total in the Registered Motor Vehicle "Uncollected" column reflects costs, fees and interest that was not paid.

At the end of FY 2015, there were a total of 39 parcels with tax bills totaling \$9,377.83 under formal appeal with the Board of Equalization and Review or the Property Tax Commission; consequently, the Tax Collector was barred from pursuing collection for these tax bills. In addition, the Tax Collector was barred by the U.S. Bankruptcy Court from collecting 12 real estate and personal property tax bills totaling \$8,239.44. When the above totals are adjusted to remove this amount from the net levy calculation for both real estate and registered motor vehicle taxes, the combined collection percentage increased to 99.60%.

PEOPLE • PRIDE • PROGRESS • PARTNERSHIPS

700 East Stonewall Street (28202) • P.O. Box 31457 • Charlotte, North Carolina 28231 • 980-314-4488

Reference is hereby made to reports in the Office of the Tax Collector that list the persons owning real property and personal property whose taxes for the preceding fiscal year remain unpaid and the principal amount owed by each person.

These reports are available for inspection and review upon request. The Tax Collector has made diligent efforts to collect the taxes due from the persons listed by utilizing the remedies available to him for collection.

Prior Year Collections

Real Estate/Personal Property Tax:

<u>Tax Year</u>	<u>Net Levy</u>	<u>Collected in FY2015</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
2009	\$13,795,362.66	\$ 5,277.71	\$44,566.73	99.68%
2010	\$14,280,846.13	\$ 6,961.20	\$63,487.57	99.56%
2011	\$16,084,954.11	\$ 11,734.83	\$40,021.07	99.75%
2012	\$16,395,875.42	\$ 17,966.63	\$51,958.03	99.68%
2013	\$16,547,894.85	\$ 46,787.31	\$64,804.23	99.61%

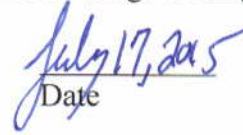
Registered Motor Vehicle Tax:

<u>Tax Year</u>	<u>Net Levy</u>	<u>Collected in FY2015</u>	<u>Uncollected</u>	<u>Pct. Collected</u>
2011	\$1,988,202.92	\$ 2,194.07	\$23,530.29	98.82%
2012	\$2,115,243.53	\$ 5,597.76	\$28,525.40	98.65%
2013	\$1,230,003.48	\$ 44,986.29	\$21,160.28	98.28%

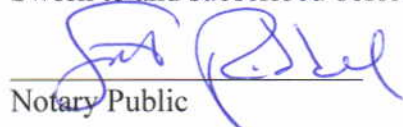
Please contact me at Neal.Dixon@MecklenburgCountyNC.gov or 980-314-4488 if you have any questions or comments regarding this settlement report.

North Carolina General Statute 105-373(3) requires that this settlement be submitted to the governing board. The settlement shall be entered into the minutes of the governing body. Please ensure that this settlement is entered into the minutes of the governing body as required by statute.


Tax Collector


Date

Sworn to and subscribed before me this 17 day of July, 2015


Notary Public



My Commission expires on 2-5-18.
Date

CC: Janet Stoner, Finance Director
Julie Berger, Deputy Director, Office of the Tax Collector
Kimberly Deal, Deputy Director, Office of the Tax Collector

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: Greg Ferguson, Town Manager
Subject: Order of Collection

Adopt Order of Collection for tax year 2015 (FY2016).

ACTION RECOMMENDED:

Adopt Order of Collection.

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

Description	Type
☐ Order of Collection	Backup Material

ORDER OF COLLECTION

NORTH CAROLINA, HUNTERSVILLE

TO THE TAX COLLECTOR OF MECKLENBURG COUNTY

GENERAL STATUTE 105-321(b)

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records, filed in the office of the Tax Assessor and the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be first lien upon all real property of the respective taxpayers in Huntersville and this order shall be a full and sufficient authority to direct, require and enable you to levy on and sell any real and personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand official seal, this _____ day of _____, 2015.

Mayor of Huntersville (SEAL)

Attest:

Clerk of Board

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: David Peete, Principal Planner, AICP
Subject: ANNEX 15-03 Bryton - Howard Tract Annexation

Call a Public Hearing for Monday, September 21, 2015 at 6:30 PM in the Huntersville Town Hall on petition #ANNEX 15-03, a request by Gwendolyn J. Howard (working with LStar) to annex 15.582-acres into the Town of Huntersville. The area to be annexed is contiguous to the Town of Huntersville.

ACTION RECOMMENDED:

Call Public Hearing for September 21, 2015

FINANCIAL IMPLICATIONS:

n/a

ATTACHMENTS:

Description	Type
□ Resolution to Call Public Hearing	Backup Material
□ Howard Tract Metes & Bounds Description	Backup Material
□ Certificate of Sufficiency	Backup Material

**RESOLUTION FIXING DATE OF PUBLIC HEARING
ON QUESTION OF ANNEXATION PURSUANT TO N.C.G.S. 160A-31**

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Board of Commissioners has directed the Town Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the Town Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Huntersville, North Carolina:

Section 1. That a public hearing on the question of annexation of the area described herein which is contiguous to the primary town limits of the Town of Huntersville will be held at the Town Hall at 6:30 p.m. on the 21st day of September, 2015.

Section 2. The area proposed for annexation is described as follows:

(Metes and bounds description attached hereto as Exhibit A.)

Section 3. Notice of said public hearing shall be published in the Charlotte Observer, a newspaper having a general circulation in the Town of Huntersville, at least ten (10) days prior to the date of said public hearing.

Mayor

Town of Huntersville, North Carolina

ATTEST:

Town Clerk

Exhibit A: see attached metes & bounds for Howard Tract (PIN 019-111-17 & 019-111-18)

LEGAL DESCRIPTION

BEING A PARCEL OF LAND LOCATED IN THE TOWN OF HUNTERSVILLE, MECKLENBURG COUNTY, NORTH CAROLINA,
TAX ID# 019-111-17 & 019-111-18
AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1" OPEN TOP PIPE FOUND ON THE COMMON CORNER OF THE PROPERTY OWNED BY GWENDOLYN ANN J. PARKS HOWARD (HEREINAFTER REFERRED TO AS THE SUBJECT PROPERTY) AS RECORDED IN DB 3772, PAGE 520 IN THE MECKLENBURG COUNTY REGISTER OF DEEDS AND THE PROPERTY OWNED BY DEVELOPMENT SOLUTIONS BRY, LLC. AS RECORDED IN DB 28873 PG 419 IN AFORESAID REGISTRY, SAID 1" OPEN TOP PIPE ALSO BEING LOCATED N70°30'11"E A DISTANCE OF 4548.00' FROM NCGS MONUMENT "MO22", SAID MONUMENT HAVING NC GRID COORDINATES N:597,698.95 FT. AND E:1,450,482.55 FT. THENCE FROM SAID **POINT OF BEGINNING** THE FOLLOWING TWO (2) CALLS: 1) N57°34'29"W A DISTANCE OF 438.69' TO A 1" OPEN TOP PIPE FOUND; 2) N57°32'01"W A DISTANCE OF 297.93' TO A #5 REBAR SET ON THE COMMON LINE OF THE SUBJECT PROPERTY AND THE PROPERTY OWNED BY DUKE POWER COMPANY AS RECORDED IN DB 2474, PG 485 IN AFORESAID REGISTRY. THENCE ALONG SAID COMMON LINE THE FOLLOWING THREE (3) CALLS: 1) N69°26'38"E A DISTANCE OF 426.12' TO A CONCRETE MONUMENT FOUND; 2) N20°26'57"W A DISTANCE OF 364.70' TO A CONCRETE MONUMENT FOUND; 3) S69°24'53"W A DISTANCE OF 70.31' TO A CONCRETE MONUMENT FOUND ON THE COMMON LINE OF THE SUBJECT PROPERTY AND THE PROPERTY OWNED BY ONA J. HOLBROOK AS RECORDED IN DB 1969, PG 29 IN AFORESAID REGISTRY. THENCE ALONG SAID COMMON LINE N03°42'02"W A DISTANCE OF 73.80' TO A #5 REBAR SET. THENCE LEAVING SAID COMMON LINE AND ALONG THE COMMON LINE OF THE SUBJECT PROPERTY AND THE PROPERTY OWNED BY GARY LANE NORRIS AS RECORDED IN DB 4552, PG 918 IN AFORESAID REGISTRY N82°22'30"E A DISTANCE OF 584.01' TO AN IRON FOUND, SAID IRON BEING ON THE COMMON LINE OF THE SUBJECT PROPERTY AND THE PROPERTY OWNED BY WILSON D. JOHNSTON AS RECORDED IN DB 4654, PG 6 IN AFORESAID REGISTRY. THENCE CONTINUING ALONG SAID COMMON LINE N82°22'14"E A DISTANCE OF 678.41' TO A 3/4" OPEN TOP PIPE FOUND ON THE COMMON LINE OF THE SUBJECT PROPERTY AND THE PROPERTY OWNED BY DEVELOPMENT SOLUTIONS BRY, LLC. AS RECORDED IN DB 28873 PG 419 IN AFORESAID REGISTRY. THENCE ALONG SAID COMMON LINE THE FOLLOWING FIVE (5) CALLS: 1) S08°49'56"W A DISTANCE OF 516.79' TO AN IRON PIN FOUND; 2) N82°04'47"W A DISTANCE OF 634.42' TO A CALCULATED POINT AT AN 18" WALNUT TREE; 3) S10°07'54"W A DISTANCE OF 19.70' TO AN IRON FOUND; 4) S10°07'54"W A DISTANCE OF 585.25' TO A 1/2" OPEN TOP PIPE FOUND; 5) S11°03'06"W A DISTANCE OF 85.82' TO THE **POINT AND PLACE OF BEGINNING**, CONTAINING 15.582 ACRES, MORE OR LESS.

CERTIFICATE OF SUFFICIENCY OF PETITION
Bryton – Howard Tract

To: The Board of Commissioners of the Town of Huntersville, North Carolina.

I, JANET PIERSON, Town Clerk, do hereby certify that I have investigated the Petition for Bryton – Howard Tract for contiguous annexation of certain property, and have found as a fact that said Petition is signed by all the owners of real property lying in the area described therein, in accordance with North Carolina General Statutes 160A-31, *et seq.* The undersigned therefore certifies that the Petition is sufficient for the voluntary annexation of a contiguous area pursuant to Section 160A-31 of the General Statutes of North Carolina.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of the Town of Huntersville, this 11th day of August, 2015.



Janet Pierson, Town Clerk

(TOWN SEAL)

Town of Huntersville
REQUEST FOR BOARD ACTION
8/17/2015

REVIEWED:

To: The Honorable Mayor and Board of Commissioners
From: David Peete, Principal Planner, AICP
Subject: ANNEX 15-04 - Parkside at Skybrook North Annexation

Call a Public Hearing for Monday, September 21, 2015 at 6:30 PM in the Huntersville Town Hall on petition # ANNEX 15-04, a request by Skybrook LLC to annex 37.418-acres into the Town of Huntersville. The area to be annexed is non-contiguous to the Town of Huntersville.

ACTION RECOMMENDED:

Call Public Hearing for September 21, 2015

FINANCIAL IMPLICATIONS:

n/a

ATTACHMENTS:

Description	Type
□ Resolution to Call Public Hearing	Backup Material
□ Certificate of Sufficiency	Backup Material

**RESOLUTION FIXING DATE OF PUBLIC HEARING
ON QUESTION OF ANNEXATION PURSUANT TO N.C.G.S. 160A-58**

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Board of Commissioners has directed the Town Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the Town Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Huntersville, North Carolina:

Section 1. That a public hearing on the question of annexation of the area described herein which is contiguous to the primary town limits of the Town of Huntersville will be held at the Town Hall at 6:30 p.m. on the 21st day of September, 2015.

Section 2. The area proposed for annexation is described as follows:

(Metes and bounds description attached hereto as Exhibit A.)

Section 3. Notice of said public hearing shall be published in the Charlotte Observer, a newspaper having a general circulation in the Town of Huntersville, at least ten (10) days prior to the date of said public hearing.

Mayor

Town of Huntersville, North Carolina

ATTEST:

Town Clerk

Exhibit A:

Parkside at Skybrook Ph 3 Annexation – 37.418 acres

Commencing at a bolt found, the angle point in the rear line of Lot 14 of Parkside at Skybrook North Phase 1 Map 5 recorded in the Mecklenburg County Register of Deeds Office in Map Book 50-759. Thence with the rear line of Lot 14 S22-46-54E 3.55' to a point, the northeast corner of Lot 15 of Parkside at Skybrook North Phase 1 Map 2 recorded in the Mecklenburg County Register of Deeds Office in Map Book 49-163; thence with the rear line of Lots 15 & 16 of Parkside at Skybrook North Phase 1 Map 2 S22-46-54E 214.23' to an iron found, the easterly corner of Lot 16. In the northern line of the 37.418 Skybrook LLC property recorded in the Mecklenburg County Register of Deeds Office in Deed Book 21101-592, said iron found being on the existing Town of Huntersville town limits and being the Point of Beginning.

Thence from said Point of Beginning with the northern line of the 37.418 Skybrook LLC property recorded in the Mecklenburg County Register of Deeds Office in Deed Book 21101-592 N52-20-48E 101.68' to a point on the existing Mecklenburg County and Cabarrus County line; Thence with the Mecklenburg County and Cabarrus County Line S20-14-27E 1277.92' to a point on the Mecklenburg County and Cabarrus County line, said point being the southeast corner of the 37.418 Skybrook LLC property in the northern line of the Dwayne N. & Mamie H. Hensley property recorded in the Mecklenburg County Register of Deeds Office in Deed Book 4808-645; Thence with the northern line of the Dwayne N. & Mamie H. Hensley property S48-57-36W 1374.43' to an iron found; thence S50-07-20W 20.16' to a point near the centerline of Clarke Creek, said point being the northwestern corner of the Dwayne N. & Mamie H. Hensley property and the southeastern corner of the Metrolina Greenhouses Inc property recorded in the Mecklenburg County Register of Deeds Office in Deed Book 25472-182; thence with the eastern line of the Metrolina Greenhouses Inc property N35-13-24W 863.57' to a point near the center line of Ramah Creek, said point being the southwestern corner of the Rural Open Space of Parkside at Skybrook North Phase 1 Map 5 recorded in the Mecklenburg County Register of Deeds Office in Map Book 50-759 on the Town of Huntersville corporate limits; thence with the corporate limits of the Town of Huntersville and the southern line of Parkside at Skybrook North Phase 1 Map 5 N35-55-31E (passing through an iron found at 25.00') 1551.26' to a 1" stone found, the angle point in the southern line of Lot 17 of Parkside at Skybrook North Phase 1 Map 2 recorded in the Mecklenburg County Register of Deeds Office in Map Book 49-163; thence with the southern line of Lot 17 N52-20-48E 148.31' to an iron found, the Point of Beginning.

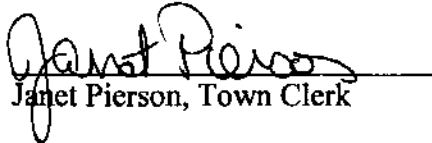
Said property containing 37.418 acres as shown on the Annexation Plat of Skybrook LLC property by Yarbrough-Williams & Houle Inc., dated 10-7-2014.

CERTIFICATE OF SUFFICIENCY OF PETITION
Parkside at Skybrook North – Phase 3

To: The Board of Commissioners of the Town of Huntersville, North Carolina.

I, JANET PIERSON, Town Clerk, do hereby certify that I have investigated the Petition for Parkside at Skybrook North-Phase 3 for non-contiguous annexation of certain property, and have found as a fact that said Petition is signed by all the owners of real property lying in the area described therein, in accordance with North Carolina General Statutes 160A-58, *et seq.* The undersigned therefore certifies that the Petition is sufficient for the voluntary annexation of a non-contiguous area pursuant to Section 160A-58 of the General Statutes of North Carolina.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of the Town of Huntersville, this 11th day of August, 2015.


Janet Pierson, Town Clerk

(TOWN SEAL)