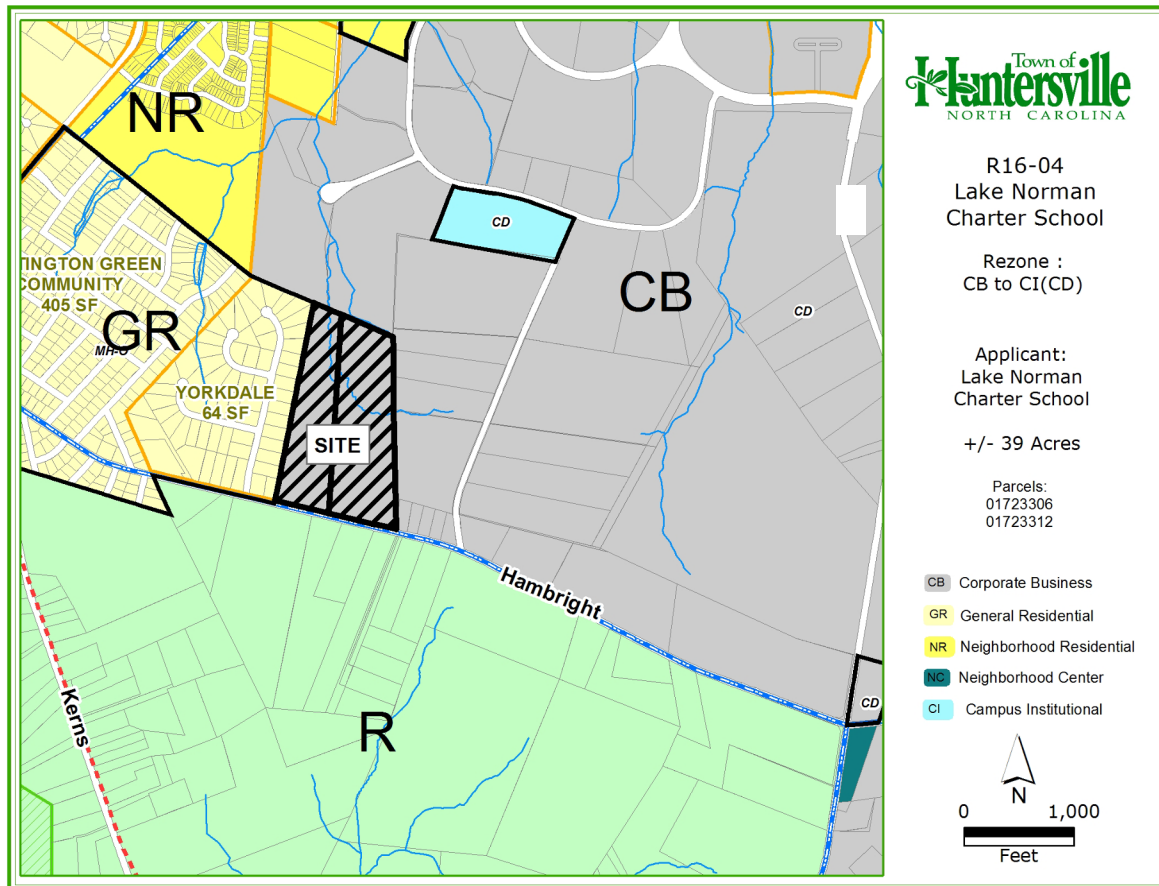


Petition R16-04 Lake Norman Charter Elementary School Reconsideration of Decision

PART 1: PROJECT SUMMARY



Applicant: Lake Norman Charter School

Property Owner: Samuel Venable / Robert Norman Sharp and Margaret Sharp, and others.

Property Address: 10019 Hambright Road and N/A

Project Size: 39 acres

Parcel Numbers: 01723312 and 01723306

UPDATE:
6/14/16

The Lake Norman Charter School has requested a reconsideration of the decision taken on 6/6/16. Please see page 10 for details.

Application Summary:

1. Lake Norman Charter School has applied to rezone the property from Corporate Business (CB) to Campus Institutional Conditional District (CI-CD) in order to develop a 500 student elementary school. The school would have a phased opening with 300 students in 2017 located in temporary modular building units. In 2018 the number of students would increase to 500 in the modular units. Thereafter a permanent gymnasium may be constructed with the modular units. Then the permanent facility would be built in 2022 on Hambright Road accommodating a maximum of 500 students.
2. R16-04 modified the withdrawn R16-01 application by transferring one of the proposed development tracts from Patterson Road to Hambright Road.
3. Adjoining Zoning and Land Uses

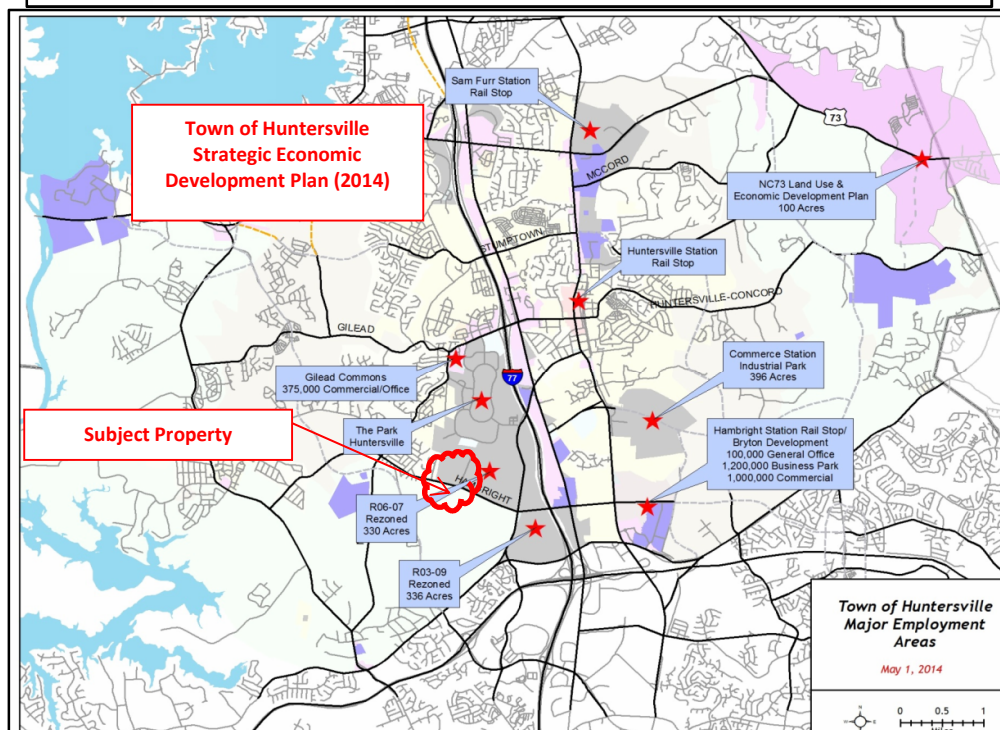
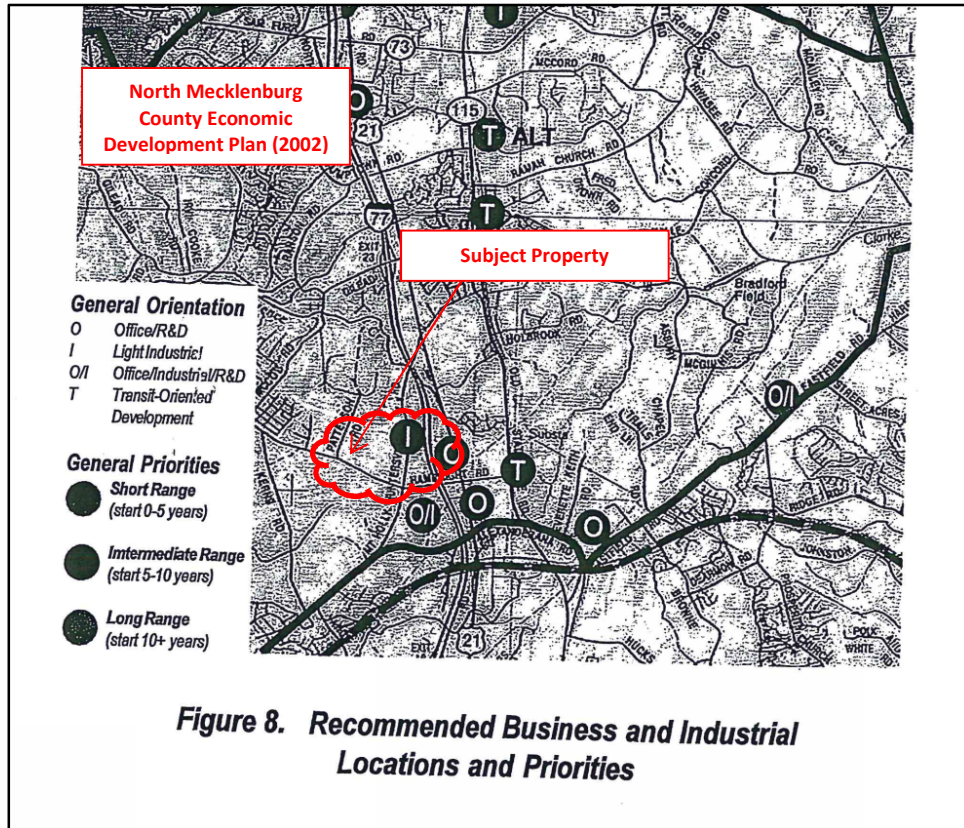
North: Corporate Business (CB), Office/Industrial/Undeveloped Land: Huntersville Business Park

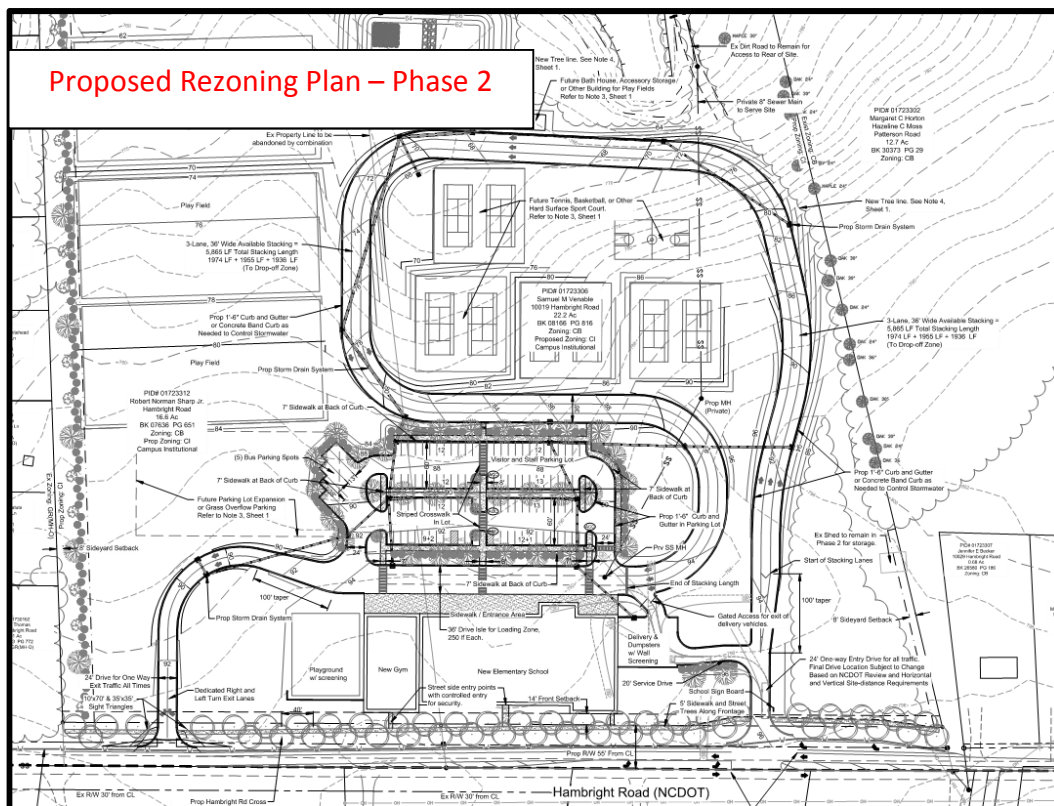
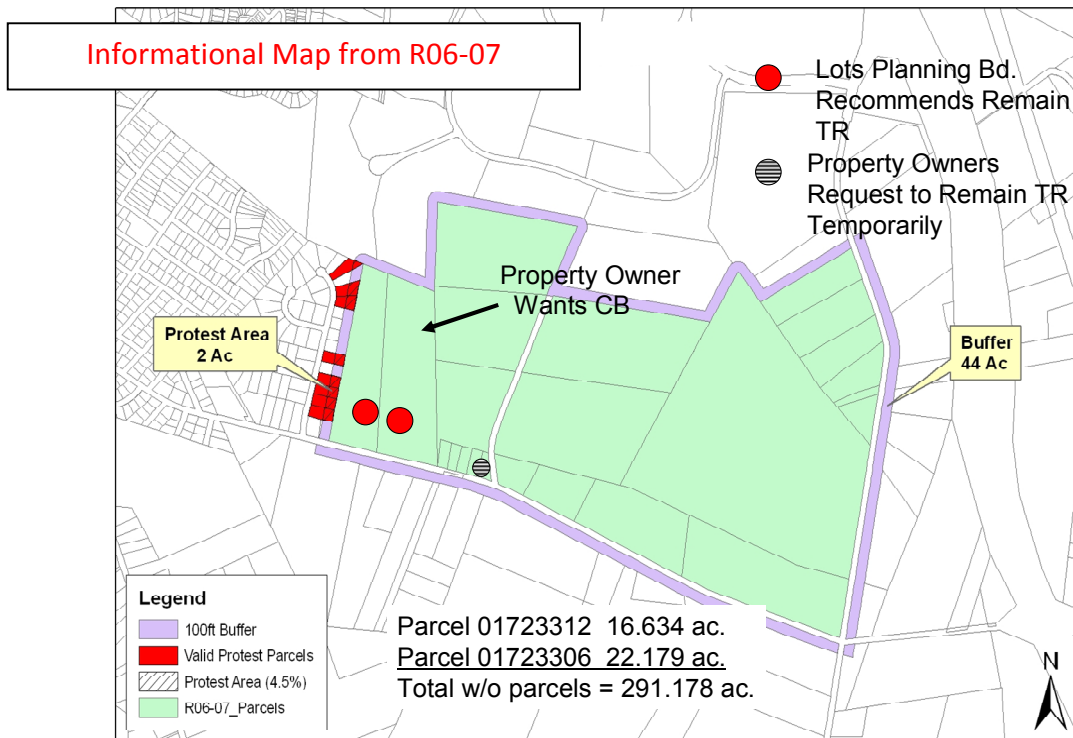
South: Rural Residential (R), Single Family Residential/Horse Farm and Stables.

East: Corporate Business (CB), Undeveloped land and five small single family residential lots.

West: General Residential (GR), Manufactured Home Overlay (MHO), Yorkdale Subdivision: Single family residential/manufactured home neighborhood.

4. The subject parcels are a portion of 330 acres that were rezoned by the Town of Huntersville from Transitional Residential (TR) and Rural Residential (R) to Corporate Business (CB) on September 5, 2006 (R06-07). The rezoning was in response to the North Mecklenburg County Economic Development Strategy plan (2002) that identified this area as appropriate for light industrial and other economic development type uses (please see page 3).
5. The subject parcels are included in the area the Town of Huntersville Strategic Economic Development Plan (2014) identifies as a "Major Employment Area" (see page 3). It also identifies this area as both a "Medium-Term" and "Long-Term" Opportunity area in regard to economic commercial development. Portions of the economic development plan are included separately in the agenda package for reference.
6. When R06-07 was under consideration for a rezoning to CB, there was discussion at the time to leave these two subject properties residential. In response to the protest petitions filed in the "Yorkdale Subdivision", the Planning Board recommended that these two far western tracts remain residential in order to create a transition or buffer of less intense uses between the single family residential Yorkdale subdivision and the Patterson Road parcels that were deemed appropriate for industrial. Please see the R6-07 informational map on page 4. However, it was noted then that the property owner of the eastern Hambright tract desired that their parcel be rezoned to CB. Ultimately, the whole area under consideration was rezoned to CB.
7. A neighborhood meeting for this application was advertised for and held on April 11, 2016. An invitation list, attendance list and summary report for the meeting are included in the agenda packet. Since this meeting was held prior to the new R16-04 site plan being officially submitted, another neighborhood meeting was held on April 26, 2014. The April 26 meeting summary report and invitation list is included in the packet for review. Per the report of the April 11 meeting, the moving of the driveway away from the back of the single family homes on Hambright Road was positively received by the neighbors. Concerns were still relayed however in regard to the widening of Hambright Road and the need for additional right of way. At the April 26 meeting, neighbors continued to be concerned about traffic improvements in front of the facility, as well as special event parking, and proposed lighting of the fields adjacent to the residential development.
8. Currently all the properties are similarly zoned Corporate Business (CB), thus no buffers are required between existing and future development in the area. However once a school is developed, Article 7 of the Huntersville Ordinance will require that future, adjacent, commercial/industrial uses establish a minimum 10 foot visual buffer on their property adjacent to the lesser intense school use.
9. Phase 1 of the development includes only modular classrooms as shown in the attached photos uploaded into the agenda package for reference. The modular classrooms would accommodate 300 students starting in the 2017-2018 school year. In 2018 the amount of students in the modular classrooms would increase to 500. After that time the gymnasium may or may not be built on the site depending on needs and funding (Phase 1A). Phase 2 of the school would include the main facility and gymnasium in the 2022-2023 school year. The maximum number of students would be 500; the size of the facility will be an estimated 45,000 sqft. After phase 2 is complete, the modular units would be removed.
10. Sewer connection for the development is dependent on the Huntersville Business Park allowing a utility easement north of the property to Herbert Wayne Court. Water utilities are being extended by the school west along Hambright Road in coordination with Charlotte Water.
11. The Huntersville Park and Recreation Department has expressed interested in entering into a joint use agreement with the school on their proposed gymnasium and fields, wherever the Lake Norman Charter Elementary School is ultimately located.





PART 2: REZONING/SITE PLAN ISSUES
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- Article 7 of the Zoning Ordinance requires that developments in the Campus Institutional (CI) zoning district establish an 80 foot buffer adjacent to residential zoning districts. The proposed development is now directly adjacent to the Yorkdale subdivision which is zoned Transitional Residential (TR). Therefore, an 80 foot buffer is required along the school's western property boundary. No buffer is shown on the plan and the proposed fields encroach into the 80 feet. The plan would need to be modified to move the fields out of the required buffer and landscape it per Article 7.
 - The school may also request that the buffer requirements be "modified" as part of the conditional rezoning process per Article 11.4.7 K as long as the spirit of the regulation is maintained. Staff would support the modification of the buffer to reduce its width. Schools are an allowed use in many other residential zoning districts such as Rural, General Residential, Neighborhood Residential, etc. If the school requested the rezoning to one of these zones, only a 10 foot buffer in between the school and the residential neighborhood would be required. However adjacent Corporate Business (CB) development would have then been required to establish an 80 foot buffer between the CB uses and those residential zones; imposing a hardship on adjacent development. The CI district was chosen because it allows schools and does not require an 80 foot buffer between it and CB development.
 - UPDATE 5/13/16: The updated plan shows a 40 foot buffer rather than 80 feet; with a note request that through the conditional rezoning process, the buffer requirements be modified. Staff supports this reduction of the buffer width for the reasons outlined above. However the note on the plan does not mention the required plantings in the buffer, where existing vegetation is insufficient to meet the separation intent of the ordinance. Staff recommends the note be amended to address the required landscaping.
 - UPDATE 5/27/16: The applicants have added a note stating the buffer will conform to Article 7.5 of the Huntersville Zoning Ordinance.
- Article 4 of the Huntersville Zoning Ordinance requires that the front elevations along the street of Civic Building Types (such as schools, churches and government buildings) "communicate an emphasis on the human scale and pedestrian environment". Staff will work with the applicant to slightly modify the Hambright Road elevation for compliance with this section, consistent with other civic building types.
 - UPDATE: 5/13/16: An updated elevation has been submitted, however many of staff's concerns have not been fully addressed. Staff will continue to work with the applicant to update the elevations.
 - UPDATE: 5/27/16: Staff is still working with the applicant on updating the elevations at the time of the agenda deadline. A final and updated elevation will be presented at the Town Board meeting for review.
- Article 4 of the ordinance requires that dumpsters be located in the parking area. The applicants are requesting a modification of the ordinance in order to allow the dumpster to be located next to the building, visible from Hambright Road. A note on the plan states that the dumpster will be screened, but there is no detail as to how. Staff recommends the dumpster screening be included in the submittal to ensure that the intent of the ordinance is achieved.
 - UPDATE: 5/13/16: On the updated elevations submitted, there is a note on the plan stating that the delivery area will be screened "using stepped brick veneer building walls, height will alternate between 6 feet and 8 feet high panels". It is also conceptually shown on the building elevations as well. Staff is supportive of this added condition.
- Staff recommends a note stating that per Article 9.35.3, no stacking will be permitted on the public right of way. And if there is stacking on the public right of way for whatever reason, it will be incumbent upon the school to take whatever necessary measures needed to cease the offsite stacking.
 - UPDATE: 5/13/16: The new plan has a note that states "LNCS shall ensure stacking will not take place on Hambright Road or any other public right of way". Staff finds this note acceptable.

- When the application shifted to the Hambright Road property, the tree save requirements and calculations changed based on the new existing conditions of the site. The submitted plan has not been updated to show the new tree save requirements and calculations for the new property.
 - **UPDATE: 5/13/16:** The new plan shows a tree save area that completely protects the back wooded portion of the westernmost Hambright Road property, therefore saving all the specimen trees located on it. Thus staff is confident the entire project as a whole will meet the required 30% specimen tree save requirement as shown.
- With the change in the location of the driveway and left turn lane, the proposed cross section of Hambright Road does not quite match the plan layout. It is recommended that the cross section be amended to match what the site plan generally shows.
 - **UPDATE 5/13/16:** The street cross section has been updated to match the rezoning plan.
- Although the Traffic Impact Analysis (TIA) was resubmitted to the Town on 4/13/16, it has not yet been accepted and approved by Huntersville Engineering staff. Per Article 14.2.3 the zoning ordinance, the TIA is required to be completed and accepted by town staff prior to final action by the Town Board. Also, the latest TIA submittal does call for mitigation improvements to several intersections (see transportation comments on page 4) but the rezoning plan does not match the TIA improvements listed. Once the TIA is accepted and approved, any mitigation required by the ordinance should be committed to by the applicant on the rezoning plan.
 - **UPDATE 5/13/16:** The updated TIA has been accepted by Town Engineering staff. However the applicant has added notes on the rezoning plan requesting that some of their required offsite improvements be modified to allow less than what the TIA shows is needed to meet the standards of Article 14 of the Huntersville Zoning Ordinance. Staff recommends all the improvements required by the TIA to meet the Zoning Ordinance be committed to by the applicant (with one of them being escrowed). Please see transportation issues below in Part 3.
- Part of the requirements for all road improvements is ensuring that there is enough right of way or public land for the road improvements to be placed in. One of the road improvements that is needed is a left turn lane from Hambright Road into the school. It is unknown at this time however whether or not there is sufficient right of way width to accommodate this left turn lane or any other traffic improvement required by the TIA. It is incumbent upon the applicant to prove that sufficient ROW exists for the improvements and if it does not, obtain it from adjacent property owners prior to permitting.
- Staff has reviewed the updated submitted plan and has several minor deficiencies still outstanding. It is recommended that final comments be addressed prior to final rezoning plan review by the Town Board.
- **UPDATE 5/13/16:** Two new notes have been added to the plan.
 - On sheet one, note number 5 has been added that states that the school reserves the right to light the tennis courts per Huntersville Ordinance.
 - On sheet one, note 25 has been added stating the developer will install fencing “commensurate with surrounding elementary schools”.
 - Staff has no issue with these added notes as the lighting note specifically addresses the tennis courts and not the open fields immediately adjacent to the residential lots. It would be difficult to light those fields and not have glare and light spillage at such a close proximity to the residential homes. In addition, the ordinance does not require any specific fencing for schools.

PART 3: TRANSPORTATION ISSUES – UPDATE – 5/16/16Traffic Impact Analysis (TIA)

A second revised TIA was submitted by the applicant on May 9th to address Town staff comments. After review, the TIA is found to be acceptable. Below is a comparison of the roadway improvements required to meet Article 14 of the Zoning Ordinance, improvements recommended by the TIA, and improvements recommended on the site plan.

Improvements Required to Meet Article 14 of the Zoning Ordinance	Improvements Recommended by the TIA (Recommended by Applicant's Engineer)	Applicant Proposal:
<u>Hambright Road at Mt Holly-Huntersville Road</u> <ul style="list-style-type: none"> - Eastbound right-turn lane on Hambright Road with 150 feet of storage - Westbound right-turn lane on Hambright Road with 150 feet of storage 	<u>Hambright Road at Mt Holly-Huntersville Road</u> <ul style="list-style-type: none"> - Eastbound right-turn lane on Hambright Road with 150 feet of storage - Westbound right-turn lane on Hambright Road with 150 feet of storage 	- <u>See agreement proposed by Lake Norman Charter School, attached in the Town Board agenda package.</u>
<u>Hambright Road at Statesville Road</u> <ul style="list-style-type: none"> - Eastbound left-turn lane on Hambright Road with 175 feet of storage - Westbound left-turn lane on Hambright Road with 150 feet of storage 	<u>Hambright Road at Statesville Road</u> <ul style="list-style-type: none"> - Add protected/permitted signal phasing to the existing northbound left-turn lane on Statesville Road 	- <u>Local agreement</u>
<u>Mt Holly Huntersville Road at NC 115 (Old Statesville Road)</u> <ul style="list-style-type: none"> - Southbound right-turn lane on NC 115 with 100 feet of storage 	<u>Mt Holly Huntersville Road at NC 115 (Old Statesville Road)</u> <ul style="list-style-type: none"> - Southbound right-turn lane on NC 115 with 100 feet of storage 	- <u>Local agreement</u>
<u>Mt Holly Huntersville Road at US 21 (Statesville Road) Southbound Ramps</u> <ul style="list-style-type: none"> - Southbound left-turn lane on Mt Holly Huntersville Road with 125 feet of storage 	<u>Mt Holly Huntersville Road at US 21 (Statesville Road) Southbound Ramps</u> <ul style="list-style-type: none"> - Northbound right-turn lane on Mt Holly Huntersville Road with 100 feet of storage 	- <u>Local agreement</u>
<u>Hambright Road at Site Driveway #1 (Inbound)</u> <ul style="list-style-type: none"> - Eastbound left-turn lane on Hambright Road with 125 feet of storage - Westbound right-turn lane on Hambright Road with 125 feet of storage 	<u>Hambright Road at Site Driveway #1 (Inbound)</u> <ul style="list-style-type: none"> - Eastbound left-turn lane on Hambright Road with 125 feet of storage - Westbound right-turn lane on Hambright Road with 125 feet of storage 	<u>Hambright Road at Site Driveway #1 (Inbound)</u> <ul style="list-style-type: none"> - Eastbound left-turn lane on Hambright Road with 125 feet of storage - Westbound right-turn lane on Hambright Road with 125 feet of storage

Based on the results of the TIA, it is Engineering and Public Works staff recommendation to require the improvements identified to meet Article 14 of the Zoning Ordinance with one exception. The exception is to utilize an escrow agreement for the estimated cost

of construction for the southbound right-turn lane on NC 115 (Old Statesville Road) at Mt Holly Huntersville Road due to the future Town Main Street Upgrade Project.

NCDOT's review comments on the TIA: As of 5/16/16, NCDOT has only provided an email to the Town stating that the information provided by the applicant to NCDOT is insufficient and/or incomplete for NCDOT to complete their review.

Site Plan

Based on the site plan sealed May 9, 2016, minor site plan errors on notes and sight triangles remain and should be corrected.

PART 5: REZONING CRITERIA

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

STAFF COMMENT – Staff finds the proposed use consistent with the following policies of the **2030 Huntersville Community Plan**:

- **Policy CD-2: Focus higher intensity development generally within 2 miles of the I-77 and NC 115 corridor.** The elementary school facility is appropriately located inside the 2 mile radius and is very close to Interstate 77.

STAFF COMMENT – Staff finds the proposed use not consistent with the following policies of the **2030 Huntersville Community Plan**:

- **Policy ED-2: Preservation of Land Area for Non-Residential Development:** Both the Town of Huntersville Strategic Economic Development Plan (2014) and the 2030 Community Plan state that the Town should preserve areas that are "suitable for business and industrial development". The subject properties were specifically rezoned for economic development purposes. Rezoning the property for an elementary school would remove at least 39 acres of property out of the Corporate Business zoning area. Please see the staff comment on page 8 note 1 however in regard to the proposed zoning's consistency with the overall character of existing development.

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

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

STAFF COMMENT:

The proposed Campus Institutional (CI) zoning and school use would be adjacent to Corporate Business (CB) zoning to the north, and east. Therefore in the future, the proposed elementary school could potentially be directly adjacent to industrial uses. Staff is concerned that in a general sense, an elementary school use would not be best served in an industrial area due to potential noise, traffic, emissions, and safety issues.

Specifically as to this location; to the west the school would be adjacent to a single family residential subdivision. The establishment of the required vegetative or undisturbed buffer though will sufficiently separate the uses and create an opaque screen between them.

If the Town Board is amenable to reducing the inventory of economic development land within the Town, staff considers the proposed location the most suitable of the CB zoned land in the area for a school use. Although the use would reduce the Corporate Business (CB) inventory of land, the use would be on the very edge of the CB area, leaving no residual or stand-alone CB pieces that may be difficult to market and develop. Also, the school location on these two parcels would act as a “transition” use in between the less intense Yorkdale single family neighborhood to the west and the Corporate Business area to the east (consistent with the Planning Board recommendation back in 2006).

- **UPDATE 5/27/16:** Lake Norman Economic Development can also support this application as a “transitional” use at this specific location.

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

STAFF COMMENT:

- In regard to the adequacy of the roadway system, the Traffic Impact Analysis (TIA) has been accepted by the Town Engineering department. However the applicant is requesting a modification of the requirements of the Ordinance to be able to install less off-site improvements than required. Please see the transportation comments on Part 3 Page 6 for details. On April 11, 2016 the Planning Department issued a “Determination of Adequacy (DOA)” for Fire Vehicles and Station Space, Police Vehicles and Station Space, and Parks and Recreation Gym and Parks.

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

STAFF COMMENT:

Planning staff has no indication that the request will adversely affect known archeological, environmental resources.

PART 7: PUBLIC HEARING – UPDATE 5/13/16

The Public Hearing was held on May 2, 2016. Several individuals at the public hearing spoke both for and against the school and its rezoning application. Several neighbors communicated concerns about traffic, the ROW needed for traffic improvements in front of the site, the rezoning not being consistent with the 2030 Community plan, and other various concerns. Please find the drafted minutes of the May 2 meeting included in your packet for your reference.

PART 6: STAFF RECOMMENDATION

Planning Staff finds the application acceptable with the following conditions:

1. All the improvements in the approved TIA are committed to by the applicant to meet the requirements of Article 14 of the Huntersville Zoning Ordinance.
2. The rezoning plan is amended to address staff comments as described above in Part 2.

PART 7: PLANNING BOARD RECOMMENDATION – UPDATE 5/27/16

The Planning Board discussed the application at their May 24, 2016 regular meeting. Several neighbors spoke in opposition to the proposed school location for various reasons. Reduction of the Corporate Business (CB) inventory, traffic concerns, right of way needs, inconsistency with the 2030 Community Plan, among other things was discussed. During the Board discussion, the inconsistency with the 2030 plan was highlighted as well as the applicant's proposal to install less traffic improvements than required by the zoning ordinance. It was also discussed however that even though the rezoning was inconsistent with the 2030 plan policy, it made sense from a land use perspective in buffering the residential developments on Hambright Road from the Corporate Business zones.

After further Board discussion, the motion was made to recommend that the Town Board approve the application with the following conditions:

1. The applicant commit to all the traffic mitigation required by the Huntersville Zoning Ordinance, including the recommended escrow contribution.
2. The note regarding the buffer is amended to add the planting requirements of the zoning ordinance.
3. Any future comments from NCDOT are addressed in the applicant's development plan.
4. The sewer connection proposed through the Huntersville Business Park is approved and provided per the zoning plan.
5. No lighting of the ball fields adjacent to the residential development is permitted (lighting of the tennis courts is acceptable per the Huntersville Zoning Ordinance).
6. The remaining site plan comments as indicated by staff are addressed.

After further discussion, the motion passed by a 5-3 vote.

PART 8: TOWN BOARD FINAL ACTION – UPDATE 6/14/16

On June 6, 2016 the Town Board denied R16-04, the rezoning request by the Lake Norman Charter School. The reason for the denial was the plan did not include the traffic improvements recommended by the Planning Board to conform to Article 14 of the Huntersville Zoning Ordinance. However, the school has submitted an agreement proposal for the traffic improvements required by the zoning ordinance for their development. The school requests the Town Board review the new agreement and conduct a reconsideration and re-vote of the Town Board Action.

PART 8: CONSISTENCY STATEMENT - R 16-04: Lake Norman Charter Elementary School

Planning Department	Planning Board	Board of Commissioners
<p>APPROVAL: In considering the proposed rezoning of Petition R16-04, Lake Norman Charter Elementary School, located on Hambright Road, the Planning Staff finds that the application is consistent with policy CD-2 of the Town of Huntersville 2030 Community Plan. Further, although the rezoning is inconsistent with Policy ED-2 of the Town of Huntersville 2030 Community Plan, the location of the proposed school fits into the Hambright Road area as a “transition use” between current low intensity residential use to the west, and proposed high intensity commercial development to the east. Staff finds the conditional rezoning plan for the Lake Norman Charter Elementary School as shown in Rezoning Petition R16-04 acceptable, with the conditions that the applicant agree to all transportation improvements required, and the remaining staff comments be addressed on the updated rezoning plan. It is reasonable and in the public interest to rezone the property at this time because the school will act as a transition use on Hambright Road between low and high intensity uses.</p>	<p>APPROVAL: In considering the proposed rezoning of Petition R16-04, Lake Norman Charter Elementary School, located on Hambright Road, the Planning Board finds that the rezoning is consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. The Planning Board recommends approving the conditional rezoning plan for the Lake Norman Charter Elementary School with several noted conditions as described in part 7. It is reasonable and in the public interest to rezone this property because with the conditions met, it’s in the public interest of the Town to rezone the property.</p>	<p>APPROVAL: In considering the proposed rezoning of Petition R16-04, Lake Norman Charter Elementary School, located on Hambright 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 approving the conditional rezoning plan for the Lake Norman Charter Elementary School as shown in Rezoning Petition R16-04. It is reasonable and in the public interest to rezone this property because... (<i>Explain</i>)</p>
<p>DENIAL: N/A</p>	<p>DENIAL: N/A</p>	<p>DENIAL: In considering the proposed rezoning of Petition R16-04, Lake Norman Charter Elementary School, located on Hambright Road, the Town Board finds that the rezoning is not consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. We recommend denial of Rezoning Petition R16-04. It is not reasonable and not in the public interest to rezone this property because..... (<i>Explain</i>)</p>