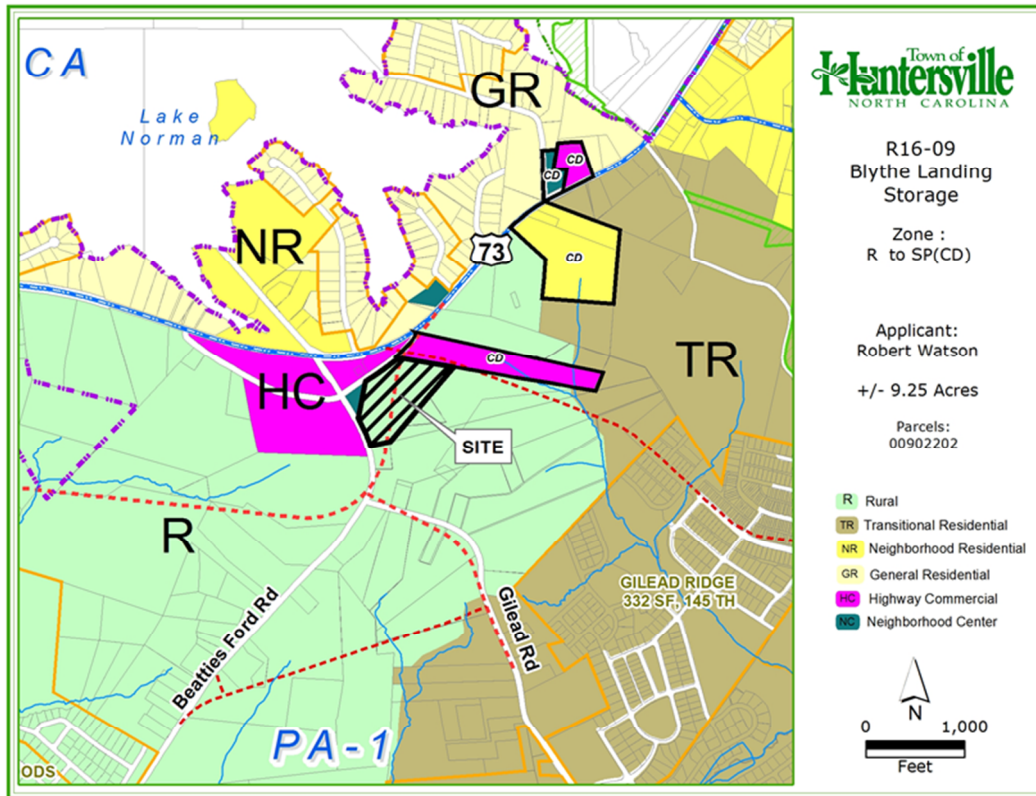


Petition R16-09: Blythe Landing Mini-Storage

PART 1: PROJECT SUMMARY



Applicant: Bob Watson

Property Owner: Daniel Phillips, Madeline Phillips, and Helga Haddix

Property Address: 14936 Brown Mill Road

Project Size: 9.38 acres (portion of existing parcel)

Parcel Numbers: Portion of 00902202

Existing Zoning:

Rural (R)

Proposed Zoning:

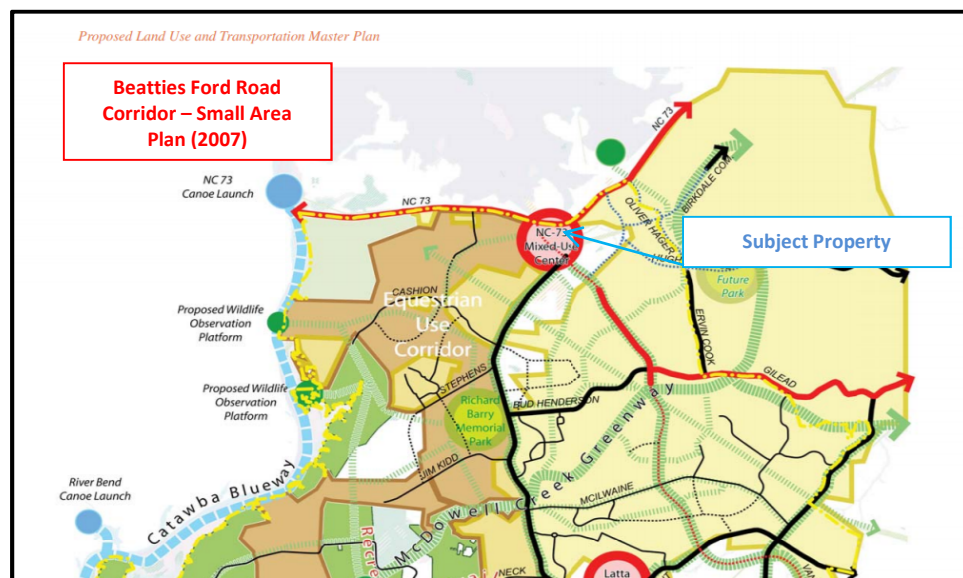
Special Purpose Conditional District (SP-CD)

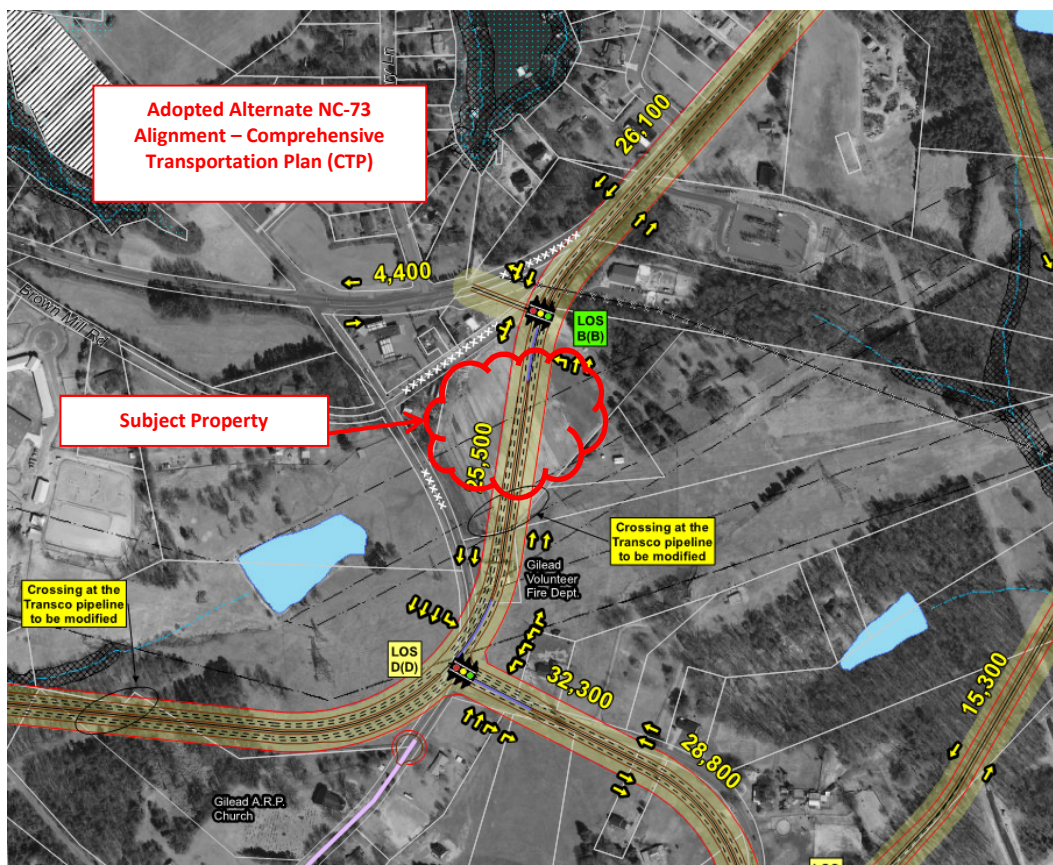
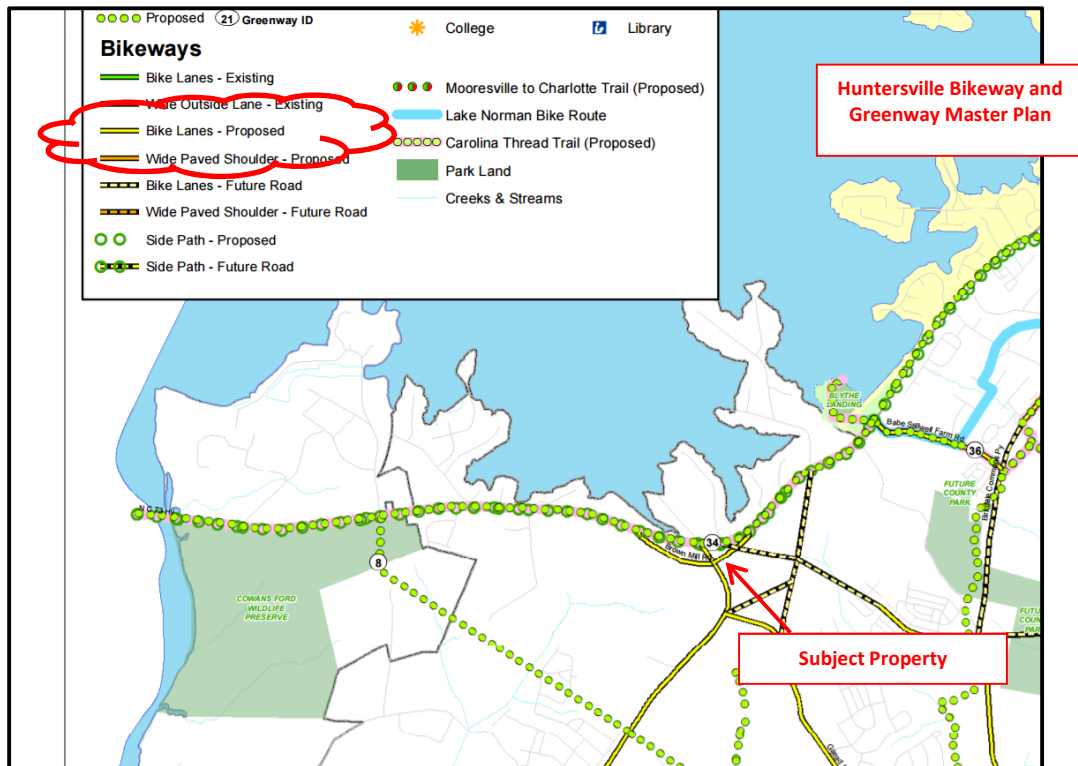
Application Summary:

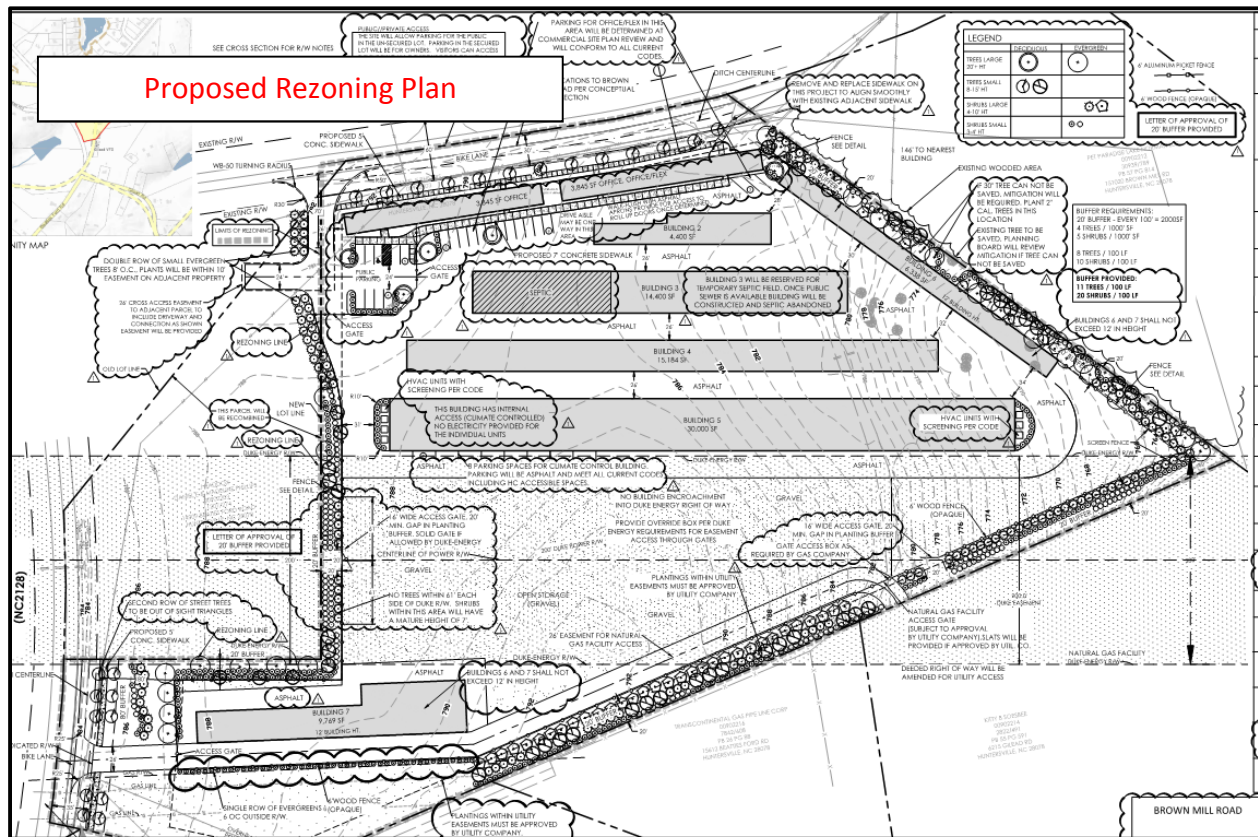
1. Daniel Phillips, Madeline Phillips, and Helga Haddix have proposed to rezone a portion of their property at 14936 Brown Mill Road from Rural (R) to Special Purpose Conditional District (SP-CD). The purpose of the rezoning is to develop a 138,562 sqft mini storage facility with 7,690 sqft of office and office/flex.
2. **UPDATE 2/22/17:** Recently, the plan has been updated with many changes along Brown Mill Road. Rather than being predominately ministorage, the buildings proposed there are now office and office flex space (office with accessory warehousing). The buffers have been updated to provide more detail as well. In response, the Town Board has sent the application back to the Planning Board for further review and recommendation. The Town Board will revisit the application on March 6, 2017.
3. **UPDATE 3/9/17:** On March 6, 2017 the Town Board continued the application until its March 20, 2017 meeting.
4. **Adjoining Zoning and Land Uses**
 - North:** *Neighborhood Center (NC)*, Old Store Market, *Highway Commercial (HC)*, Grease Monkey Automotive Oil Change Service
 - South:** *Rural (R)*, Huntersville Fire Station #1, Single Family Residential, Piedmont Natural Gas Regulator Facility
 - East:** *Highway Commercial Conditional District (HC-CD)*, Pet Paradise Grooming Facility, *Rural (R)*, Vacant Land

West: Highway Commercial (HC), Farm Land, Rural (R), Vacant Land and Horse Stables

5. Mini-storage facility uses are only allowed under the Town of Huntersville Zoning Ordinance in the Special Purpose (SP) zoning district, therefore the application for the ministorage facility development is to rezone to SP-CD.
6. The applicant proposes to recombine a portion of the 11.29 acre tract with the Old Store property at the southeast corner of Brown Mill Road and Beatties Ford Road. As currently proposed only 9.28 acres are proposed to be rezoned for the mini-storage facility and office.
7. UPDATE 2/22/17: The subject parcel is located in an area studied by the Beatties Ford Road Corridor Small Area Plan (BFRCSAP). The plan calls for the area around the intersection of NC-73 and Beatties Ford Road to be developed as a “Mixed-Use Center”. The applicant has expanded the office component of the development to include all the frontage area along Brown Mill Road. With that change staff believes part of the intent of the BFRCSAP has sufficiently been met, to provide pedestrian oriented development along the street. Staff is supportive too of the mini-storage in the rear due to the location of utility areas that make traditional commercial development more difficult to establish.
8. Per the Huntersville Greenway and Bikeway Master Plan both Beatties Ford Road and Brown Mill Road are bikeway routes with proposed bike lanes. Please see the Greenway and Bikeway map below. To accommodate the bikeway plan, the applicants have proposed to add bike lanes along their frontages of Beatties Ford Road and Brown Mill Road. Please see the proposed rezoning plan below on page 3.
9. The property in question lies in the path of the proposed NC-73 Realignment on the Comprehensive Thoroughfare Plan (CTP). This alignment was recommended by the Town Board by 3-2 vote on September 6, 2011 and adopted by the Mecklenburg-Union Metropolitan Planning Organization (MUMPO, now the Charlotte Regional Transportation Planning Organization (CRTPO)) on November 16, 2011. Please see the adopted NC-73 realignment added to the CTP on page 3 below. This alignment is currently considered one of two options for the final NC-73 location. Please see page 6 below for discussion of the environmental study status and the NC-73 alignment selection process.
10. A neighborhood meeting for this application was advertised for and held on September 28, 2016. An invitation list, attendance list and summary report for the meeting are included in the agenda packet.







PART 2: REZONING/SITE PLAN ISSUES – **UPDATE 3/9/17**

- Article 7.5 of the Zoning Ordinance requires that developments in the Special Purpose (SP) zoning district establish an 80 foot buffer adjacent to properties not zoned SP or CB. The applicant is requesting a modification of the buffer requirements under the conditional district rezoning provision of Article 11.4.7 (K), which states: “In approving a conditional zoning district, the Town Board may modify standards established in the zoning or subdivision ordinance provided the spirit of the regulations are maintained.”
 - Staff is comfortable with the reduction to 20 feet along the southern and northeastern portion of the property. To the south, the surrounding properties are inundated with utility easements and right of ways that will make development very difficult. Therefore a significant buffer to the south may not prove useful. To the northeast the Pet Paradise conditional district rezoning requires a 30 foot undisturbed buffer on the adjacent property. Thus with the 30 foot existing buffer plus the 20 proposed, a significant opaque screen between uses will be established.
- UPDATE 3/9/17:** Mecklenburg County has approved the storm water concept plan for the project.
- UPDATE 3/9/17:** In order to address the comments from the Planning Board at their February 28th meeting, the applicants have updated their zoning plan. Some of the updates include:
 - New parking spaces closer to the eastern office/flex building.
 - Added notes about security of the site and access.
 - Added notes about circulation and functionality of the eastern office building parking area.
 - Added turning radius sheet showing the ability of a large truck to circulate the site (sheet Z03).
 - Staff has no issues with the added information. The circulation, parking, and driveways of the site will need to be reviewed more closely at permitting stage. If some minor alteration to the site plan becomes necessary to accommodate interior site access, staff does not view that as a major concern.

PART 3: TRANSPORTATION ISSUES – UPDATE 2/13/17

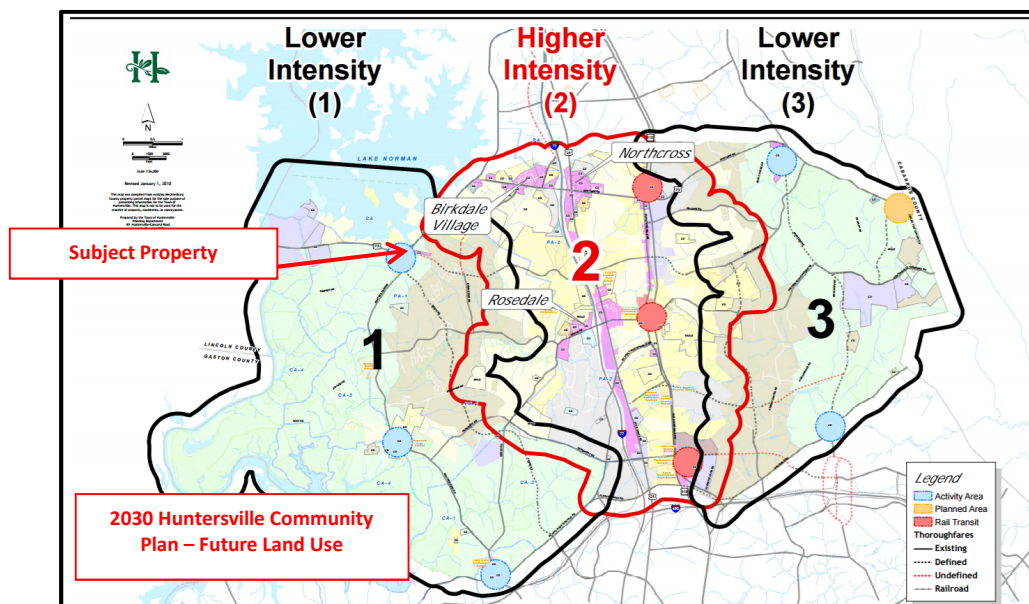
- The property proposed to be rezoned currently lies directly within the path of the adopted realignment of NC-73 on the Comprehensive Transportation Plan (CTP).

PART 4: REZONING CRITERIA

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

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 or within the identified nodes and centers.** The proposed development is located in the activity area “node” identified in the 2030 plan. Please see the 2030 future land use map below.
- Policy T-6: Pedestrian Connections.** The applicant is installing bike lanes along their frontage, consistent with the Huntersville Greenway and Bikeway Master Plan.



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

- Policy CD-1: Land Use/Transportation Integration.** This policy calls for the continued integration of land uses and transportation elements along with consistency with adopted long range plans. As described below on page 7, the proposed development lies directly in the path of the approved NC-73 realignment. Therefore the proposed land use plan fundamentally conflicts with current approved transportation plans.
- Policy CD-5: Infrastructure.** This policy calls for adequate public infrastructure to either exist or be made available to support all new development. Similar to the concern above, the proposed development lies directly

in the path of the NC-73 realignment. The approval and construction of this development could impede the construction of the NC-73 realignment, thus hindering the extension of public infrastructure to the area.

STAFF COMMENT – Staff finds the proposed use not consistent with **the Adopted Comprehensive Transportation Plan (CTP)**

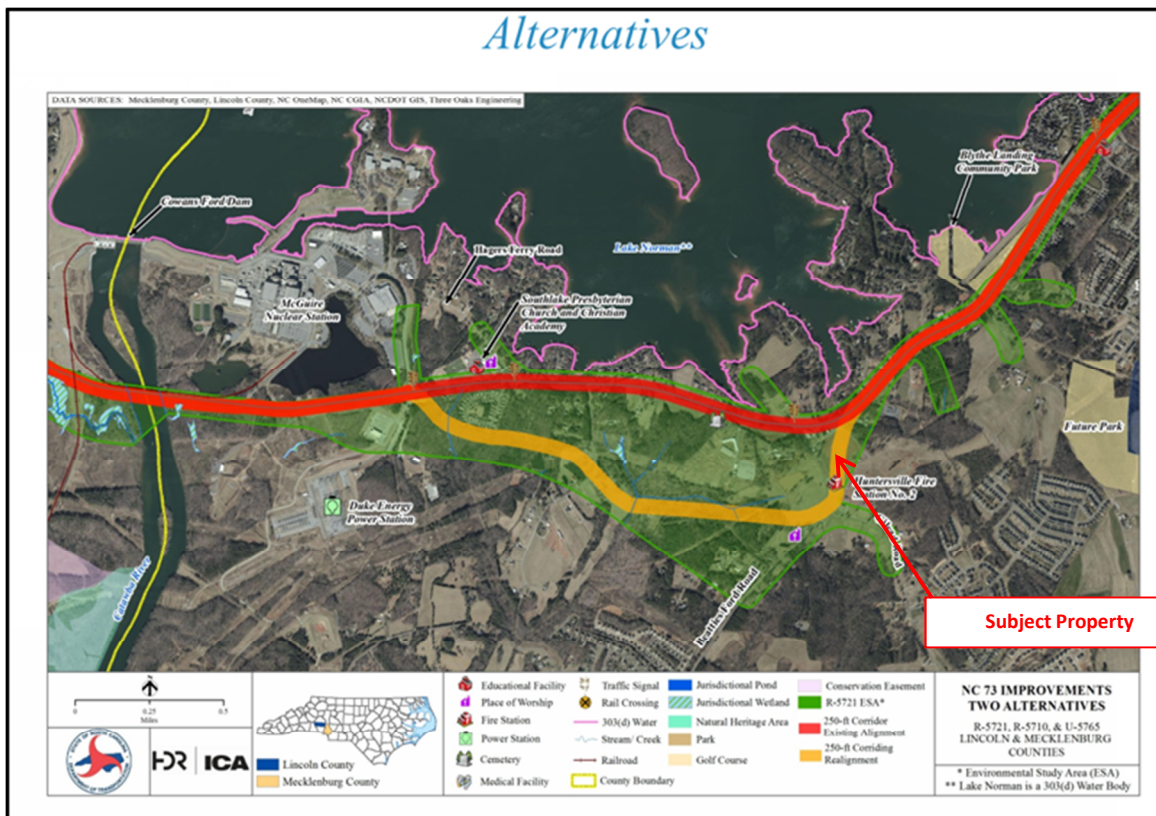
- The widening and improving of NC-73 in the area of Beatties Ford Road (State Project number R5721) is scheduled for construction on the North Carolina Transportation Improvement Program (NCTIP) for the year 2023. The drafted updated CTP proposes moving the construction start date up to 2021. The property proposed to be rezoned currently lies directly within the path of the adopted realignment of NC-73. This alignment was recommended by the Town Board and then adopted into the Comprehensive Transportation Plan (CTP) by the Charlotte Regional Transportation Planning Organization (CRTPO) in November 2011. The North Carolina Department of Transportation (NCDOT) has recently begun conducting an Environmental Study for R5721 and will study the environmental and historical impacts of two potential alternatives; the expansion and improvement of the current alignment of NC-73 and that of the new realignment alternative adopted. Please see the study alternative map below on page 7. The alternative that ultimately is found to present the most benefit with the least level of negative impact will be chosen. The first draft of the study is scheduled to be released in the summer of 2018 and be ultimately approved in the summer of 2019. Staff does not recommend approving the intensification of any property within an approved thoroughfare alignment. However if after having studying both alignments, and the original NC-73 alignment is ultimately chosen, then the proposed development would no longer be in conflict with the updated plans.
- UPDATE 1/30/17: It has been mentioned in conversation with staff that NCDOT officials are preliminarily voicing their opinion on which alignment is preferred. According to NCDOT there have been no cost estimates done yet for either of the alignments and no preference has been observed nor communicated at this time. It is still expected that the environmental assessment will be complete in the Summer of 2018, at which time it is possible a preference and selection of the alignment could be deduced, but not finalized
- UPDATE 2/13/17: During the Town Board meeting on February 6, 2017 (when the application was deferred) the question arose on whether or not state law conflicted with the ability of the Town to consider the thoroughfare when making rezoning decisions. Bob Blythe sent planning staff the following response for clarification on the matter. The email is also attached in your agenda packet for reference.
 - “This is in reference to the question of a potential thoroughfare alignment affecting a proposed rezoning of property which would be affected by the thoroughfare. There seems to be a thought that there is a state law, either by statute or by court ruling, that the location of the road cannot be considered by the decision makers in a rezoning case. I believe that the genesis of this opinion is the fairly recent North Carolina Supreme Court case of Kirby, et.al. v. North Carolina Department of Transportation. Although you can never say with certainty how a court might rule in a different case, I do not believe that Kirby stands for this proposition at all. This case arose out of the so-called Map Act, a North Carolina statute that permits NCDOT to establish a thoroughfare alignment after public hearing, etc., and then to record that corridor in the county Register of Deeds. At that point certain restrictions become placed on the use of the property within the corridor including (with certain exceptions) the right to obtain a building permit. The court in essence held that the imposition of these restrictions had the effect of affecting the value of the property, and therefore constituted a taking for which the landowner was entitled to compensation. The court did not find the MAP Act unconstitutional. (The legislature did adopt legislation in the 2016 session cancelling all outstanding Map Act corridors, and placing a moratorium on new corridors until July 1, 2017). Note that the possible thoroughfare here is not a corridor under the MAP Act. In any event, I don’t see that the proposed alignment constitutes a legal restriction on the use of the property. From a zoning standpoint, it can still be used for whatever is presently permitted. And I see nothing that precludes the Board from taking the existence of the possible alignment into consideration in their deliberations in their legislative capacity.”

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:

Although there is no Special Purpose (SP) zoning anywhere in the area of the proposed development, commercial activity is common near NC-73 and Brown Mill Road to the north, with a gas station and oil change facility both zoned Highway Commercial (HC). The Old Store retail building at the corner of Brown Mill Road and Beatties Ford Road is also a commercial operation along that street frontage. Therefore with the buildings along Brown Mill Road now broken up into two separate buildings, having added architectural detail, and now providing street door connections, and the mini-storage reserved for the rear of the site, staff finds the development consistent with the overall character of adjacent development.



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, per Huntersville Transportation Staff, the proposed use as currently submitted will not create enough vehicle trips to necessitate the submittal of a Traffic Impact Analysis (TIA).
- Since the property proposed has less than 10,000 of office proposed, the Adequate Public Facilities Ordinance does not apply to this development.

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 5: PUBLIC HEARING – UPDATE 11/8/16

The Public Hearing was held on November 7, 2016. Two individuals from the public spoke in opposition to the plan due to the conflict with adopted plans and the Town’s ordinances. Discussion in the hearing centered on the outstanding site issues and the status of the NC-73 realignment. Specific items that were mentioned which needed to be addressed were: the new zoning line needed to be clarified and the question on whether or not the application showed a subdivision needed to be answered. STAFF COMMENT: The plan includes a label that states the intent is to recombine the corner parcel on Brown Mill Road with the proposed development parcel, thus only shifting the property line to the east (no subdivision). However, if that is the intent it needs to be clarified on the plan as separate and additional property lines are shown which causes confusion.

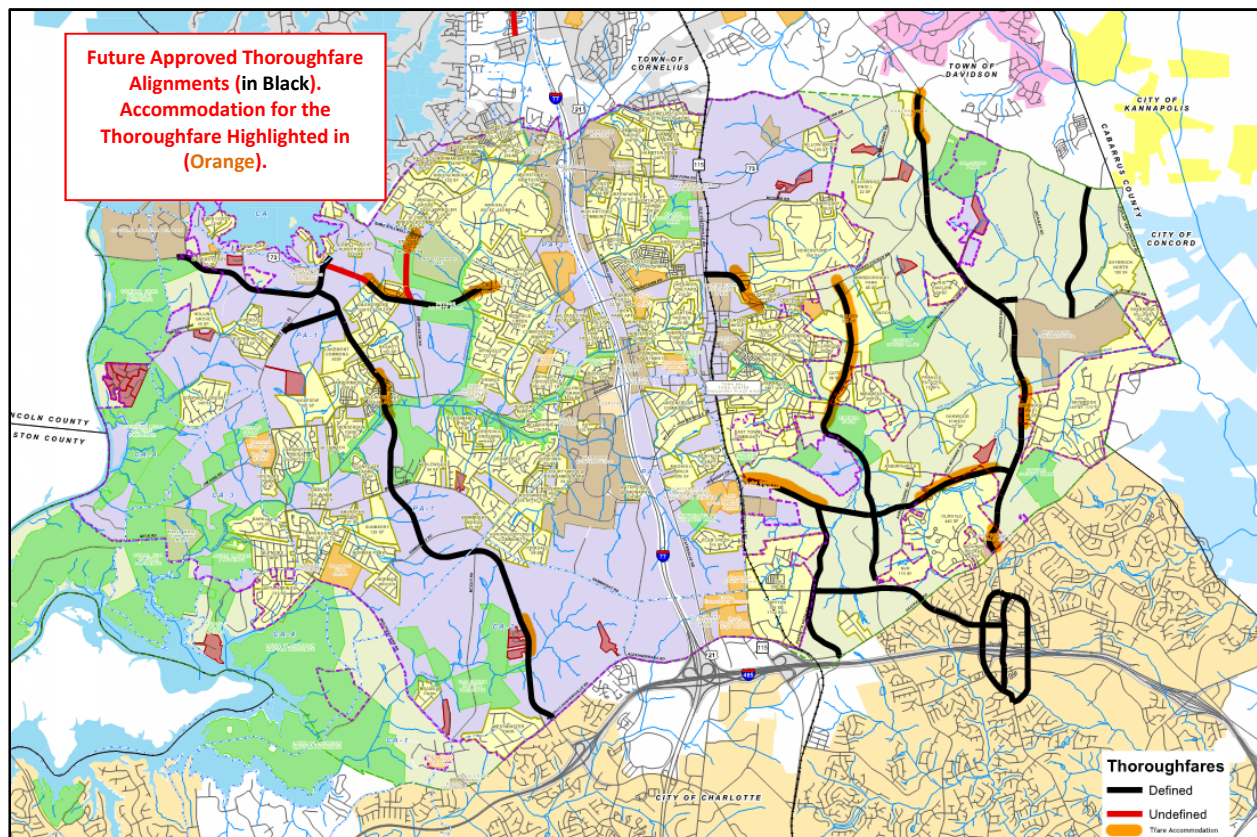
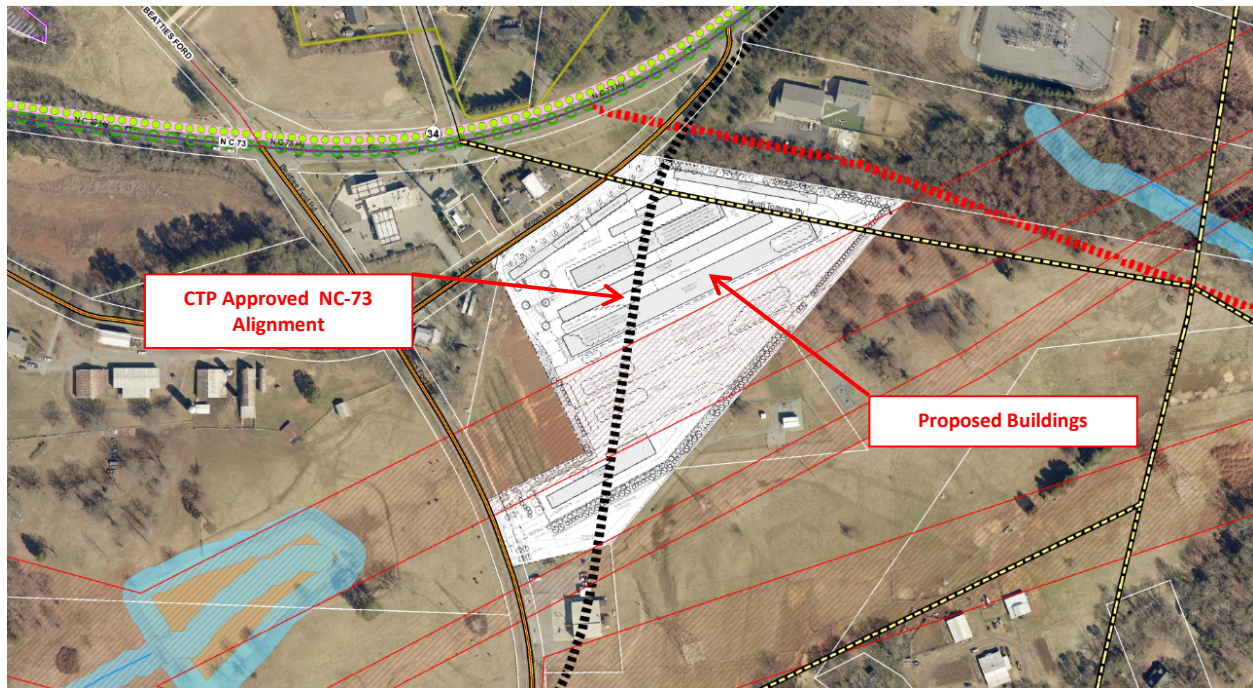
PART 6: STAFF RECOMMENDATION – UPDATE 3/14/17

Staff recognizes and appreciates the fact that the overall design and conformance to the ordinance has significantly improved since the beginning of the review process. The applicant has been very responsive to staff recommendations when possible. However at this time staff recommends denial of the application for the following reasons:

- The plan is in direct conflict with the approved and adopted Comprehensive Transportation Plan (CTP) for the NC-73 realignment. Staff does not recommend intensifying the zoning of a property when it conflicts with an approved thoroughfare. We are not aware of any other development being approved in current staff’s tenure that did conflict with an approved thoroughfare plan. Not only does the property in question lie directly along the proposed route, but the proposed rezoning plan would construct buildings immediately in the path of the road. Please see the overlay of the proposed plan and the CTP below on page 9. If the approved alignment is chosen and the proposed development is approved, it will cost the public more to build the thoroughfare and the buildings constructed will in a few years ultimately be taken right back down. It is recommended that no decision be made until the environmental study is done next year when the alignment to be chosen will be more clear.
 - Please find attached in your agenda package a power point presentation presented to the Mecklenburg-Union Metropolitan Planning Organization (MUMPO) in 2011 providing background on how the current and approved alignment came to be.
- Staff is concerned that approving a rezoning for a development that conflicts with a thoroughfare alignment that has been approved by the Charlotte Regional Transportation Planning Organization or its predecessors could set a precedent that may compromise the validity of the Town’s future transportation network. Please find below on page 9 a map of the approved future thoroughfare alignments in the Town of Huntersville jurisdiction. In it is an estimated 26.8 miles of approved future roads. As mentioned above, staff is unaware of any rezonings approved in the past that conflicted with an approved thoroughfare route. However several

rezonings have accommodated them. Please find an email to the applicant outlining those instances attached in your agenda package.

- The plan is inconsistent with policies CD-1 and CD-5 of the Huntersville 2030 plan which recommends consistency with approved transportation plans and infrastructure as described above.



PART 7: PLANNING BOARD RECOMMENDATION – UPDATE 3/1/17

On February 28, 2017 the Planning Board reviewed the updated application and recommended the Town Board deny the application by a 6-2 vote. The Planning Board found that the rezoning is not consistent with the 2030 Community Plan, and the Beatties Ford Road Corridor Small Area Plan. It is not reasonable and not in the public interest to rezone this property, because it does not accommodate the approved future road improvement; it is not consistent with mixed use development pattern called for in the adopted plans, nor does it conform to the Zoning Ordinance in regard to the buffering. It also poses security issues within the site; proposes traffic challenges for trucks entering and exiting for flex space use; only provides 5.8% of office flex space, which does not meet the intent of a mixed use development even though it might meet the spirit; it is not pedestrian oriented; the storm water concept plan has not been approved; parking lot and/or parking spaces for office and flex space use have not been provided on the sketch plan in accordance with the Ordinance; and in addition to the Community Plan policy CD1 and CD5, it does not meet the requirements of policies H2, H3, H4, H8 and CD3.

The draft minutes for the February 28, 2017 Planning Board meeting are included in your agenda package for reference.

PART 8: CONSISTENCY STATEMENT - R 16-09: Blythe Landing Mini-Storage

Planning Department	Planning Board	Board of Commissioners
Approval: N/A	APPROVAL: N/A	APPROVAL: In considering the proposed rezoning of Petition R16-09, Blythe Landing Mini-Storage located on Brown Mill 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 Blythe Landing Mini-Storage as shown in Rezoning petition R16-09. It is reasonable and in the public interest to rezone this property because... <i>(Explain)</i>
DENIAL: In considering the proposed rezoning of Petition R16-09, Blythe Landing Mini-Storage, Planning Staff finds that the rezoning is not consistent with Policies CD-1 and CD-5 of the Huntersville 2030 Community Plan or the adopted Comprehensive Transportation Plan. We recommend denial of R16-09. It is not reasonable and not in the public interest to rezone this property because it does not accommodate for future road improvements.	DENIAL: In considering the proposed rezoning of Petition R16-09, Blythe Landing Mini-Storage on Brown Mill Road, the Planning Board finds that the rezoning is not consistent with the Town of Huntersville 2030 Community Plan and the Beatties Ford Road Corridor Small Area Plan. It is not reasonable and not in the public interest to rezone this property because it does not accommodate the approved future road improvement; it is not consistent with mixed use development pattern called for in the adopted plans, nor does it conform to the Zoning Ordinance in regard to the buffering. It also poses security issues within the site; proposes traffic challenges for trucks entering and exiting for flex space use; only provides 5.8% of office flex space, which does not meet the intent of a mixed use development even though it might meet the spirit; it is not pedestrian oriented; the storm water concept plan has not been approved; parking lot and/or parking spaces for office and flex space use have not been provided on the sketch plan in accordance with the Ordinance; and in addition to the Community Plan policy CD1 and CD5, it does not meet the requirements of policies H2, H3, H4, H8 and CD3.	DENIAL: In considering the proposed rezoning of Petition R16-09, Blythe Landing Mini-Storage on Brown Mill 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 R16-09. It is not reasonable and not in the public interest to rezone this property because..... <i>(Explain)</i>