



Planning Board
Bruce Andersen, Chairman
Brian Hines, Vice Chairman
Addison Causey
Nancy Clarke
Leonard Cook
Barry Hester
JoAnne Miller
Sam Mount
Jeff Neely
Randy Poindexter
Joe Sailors

The Regular Meeting of the Planning Board was held at the Huntersville Town Hall at 6:30 p.m. on February 24, 2009.

Call to Order

The Chairman called the meeting to order at 6:33 p.m.

Board Member Attendance

Chairman Bruce Andersen, Addison Causey, Nancy Clarke, Leonard Cook, Barry Hester, JoAnne Miller, Jeff Neely, Randy Poindexter, and Joe Sailors were in attendance. The following members were absent: Vice Chairman Brian Hines, Leonard Cook and Sam Mount.

Planning Staff Attendance

Jack Simoneau, Planning Director, David Peete, Principal Planner, Whitney Hodges, Senior Planner, and Michelle V. Haines, Secretary.

Consent Agenda

Jeff Neely made a **Motion to Approve** the Minutes of the January 27, 2009 Regular Planning Board Meeting. Nancy Clarke seconded the Motion, and the vote was unanimous. Addison Causey abstained from the vote, which was considered an affirmative vote.

Action Agenda

1. Lisa McCarter, Planner I presented TA09-01, which is a request by the Town of Huntersville to consider amending §7.280 of the Huntersville Subdivision Ordinance regarding permitting when developing in a floodplain, access to buildings during flood, higher building standards, new parking lot requirements, and new levee requirements. A copy of the Staff Report is attached hereto as Exhibit "A", and incorporated herein by reference. Staff supports this amendment to ensure continuation of FEMA flood insurance.

Bruce Andersen offered to the members that the Storm Water Advisory Board had previously reviewed the information and he recommended approval of the amendment. Joe Sailors made a **Motion to Approve** the amendment as being consistent with the Town of Huntersville Community Plan and other applicable long range plans, and to amend the Subdivision Ordinance and Code of Ordinances as being reasonable, in the public interest and appropriate. Jeff Neely seconded the Motion. The vote was unanimous.

2. Whitney Hodges, Senior Planner presented R08-10, which is a request by Harris Development Group to rezone 53.29 acres located along Hwy 115, across from Caldwell Station, from Transitional Residential (TR), Corporate Business (CB) and Corporate Business Conditional District (CB CD) to Transit Oriented Development Residential Conditional District (TOD-R CD). The development would consist of 135,500 square feet of office, 99,500 square feet of commercial retail and approximately 1,030 multi-family units. A copy of the Staff Report is attached hereto as Exhibit "B", and incorporated herein.

Staff explained that the developer was requesting only zoning approval of the entire project to include approximately 64 buildings and the transit station with 2 access points from Hwy 115. There will be a third access off of Caldwell Station Road. Staff explained that they are meeting the requirements of the tree save pursuant to the Ordinance. There are 91 trees on site, and they are saving 46 trees (mainly in the rear of the project). The project has urban open site within a quarter mile. A greenway from the Town of Huntersville Master Greenway Plan comes to the site, and it is intended to connect the greenway into a sidewalk city system, which the developer has committed to doing the connection as a pedestrian path.

Staff handed members a two-sided sheet listing the Traffic Impact Analysis ("TIA"), Screening and Landscape Areas, Access, and Phasing comments and notes (see Exhibit "C"). The TIA and Adequate Public Facilities ("APF") have been based on a phased development and have only been allocated for 60,000 square feet of office, 35,000 square feet of commercial and 450 residential units. For each stage past this amount the developer must ask for addition adequacy and an addition TIA. A Special Use Permit will be needed, and according to the notes in the plan it is stated they will return for that Permit. Without the permit they can not develop the commercial intensity. Additionally, a Special Use Permit will be required for the transit station and the parking lot.

The Children's Schoolhouse ("Schoolhouse") located at 17616 Caldwell Station Road, and the Church located on Caldwell Station Road borders the property on the north. The Schoolhouse has been involved in meetings with staff and the developer. There are additional notes on the attached Exhibit C that come from a meeting with the Developer, and the comment under Access is a proposal from the developer, which needs further review. Prior to any sketch plan approval, the developers have committed to holding another neighborhood meeting to incorporate more details and concerns of these adjoining property owners.

Certain intersections have been studied by staff and through the TIA. The improvements are conditioned on if NC73 is not widened to Hwy 115, which includes a left turn lane on Mayes Road, an on site improvement at the entrance will include a left turn lane and a through right lane lining up with Caldwell Station. It is assumed to be a signalized intersection. The second entrance to the site will include a left and right lane from the site, a right lane in the site and a left turn lane to the site. Staff further advised that the Town of Cornelius was asked to comment as required, and they commented that if Sam Furr Station was to be given an additional access point along the rail line, they wanted Smith Road (a Cornelius road near Mt. Zion Church to the north) to stay open, which is scheduled to close.

Staff further informed the Board that the developer has worked with CATS and this plan matches with the project that CATS is working on for their feasibility study. From the initial conversations it will work as far as where the station is and providing for a park and ride, including future space and decking for the development.

Staff has an issue with the height language that the developer is proposing. Within the quarter mile radius, the height needs to be a minimum of 26' pursuant to the Ordinance. The developer has committed to an average of 26' for each building within the limited space area. This could mean the developer could have a one-story townhome connected to a 14' story townhome next to a 32' building to average to 26'. They are meeting the requirements for the floor area ratios; however, staff wants consistency in the core area(s) in accordance with the Ordinance.

Concerning the APF and density, and the phasing of the project, staff is comfortable with maintaining the Ordinance. The density shown on the plan is approximately 33 dwelling units per acre. When adding additional units the developer will need to provide an adequacy of facilities for parks, police and fire.

In general, staff is supportive of the rezoning request. It is felt that the concerns as noted on the plan can be worked out. However, Staff does not support the height notes. One of the issues from the Public Hearing was the temporary construction entrance if they can not use Hwy 115. Caldwell Station Road would be used and cause large construction traffic, which causes concern for the Schoolhouse. Staff recommends that the road needs to be made 20' wide. The road would need to be built to 20' wide prior to construction if this were to be used as a temporary construction entrance. NCDOT would also require this as a part of the driveway permit. Additionally, there are a couple of large trees to consider saving that is not on the rezoning plans, which can be done during sketch plan level.

Joe Sailors was concerned with the tree save since the two trees were not noted on the plans, and requested that a note be added indicating that the large trees will be saved. Tracy Finch, Project Manager with Harris Development Group, appeared before the Board, and responded that it was merely the timing when the issue came up verses when the tree survey was done. A note was added about saving the trees on Friday (February 20, 2009). As part of their requirement to widen Caldwell Station Road in front of the Schoolhouse they will save those trees, and they will work to save the other trees in that area as well.

Bruce Andersen questioned the width of the Hwy 115 and the right-of-way available, to which Staff explained that 100' is required pursuant to the Ordinance. Additional right-of-way may not be required due to the railroad track. The developer has agreed to dedicate 50' from the centerline of Hwy 115 and where they give right of way for the railroad that would be 50' on each side of the center rail line. Staff informed that when it came to a dedication of right of way for widening it would be requested by Staff to be on the west side of the road as coordinated and approved by NCDOT.

Tracy Finch responded to the Board that they would need to re-engineer the track and a new entrance. CATS identified where they want an entrance, and the developer is trying to

coordinate the main entrance with their (CATS) wants. The southern entrance is part of larger negotiation when it comes to crossing the rail line, which needs to be a group effort with CATS and the railroad. Joe Sailers asked about the southern entrance and if it was not opened if Caldwell Station Road would be used in the alternative. Tracy Finch responded that they would be left with 2 access points, not 3, and their claim to CATS and the railroad is that they can not propose a transit oriented development with only two entrances. She further stated that this project is a very long process for Harris Development Group and that with this rezoning they could not be "shovel ready". They need to have further negotiations concerning the sewer, railroad crossings, station and a lot of other things need to be hashed out.

Jack Simoneau, Planning Director appeared before the Board and explained that the developer will have to do a TIA for the next phase to analyze the roads and intersections. Bruce Andersen stated that this is a very flexible Petition that is sorely missing in technical details. If phasing is desired the Planning Board should see what the phasing contains. This would alleviate the unknown of the entrances and rezoning. It does not give them carte blanche rezoning now and in the future.

Tracy Finch stated that the intent is to agree on the density, some of the access points and the true bones of the rezoning so they can find a way to work with CATS for the park and ride. From a market stand point, CATS is going to pick a park and ride and purchase the property and developers will pick up the property around it. The developer is trying to coordinate a park and ride into the development. This is the developer's step one: agreement as to where the park and ride is located, street network and the access points. It was identified that the access points need to be identified and negotiated, but it was seen that the rezoning is the first step. From a market stand point, there is a lot of ambiguity to the plans; however, it is based on transit. If transit were not to happen then the developer will come back and talk about the how the property would develop without transit. Phase 1 will get the development started, but could not state where Phase 1 will go or be. It could be the townhomes, or could be the commercial around the transit station, but, it will be built as it relates to transit. She further acknowledged that they can not build what is shown without transit and can not justify what is being paid for the land with the first phase.

Bruce Andersen gave the example of the Bryton project being a transit oriented development, and that they did not base their plans solely on transit. Tracy Finch stated that if transit does not come within the 3 years they will probably be back with a different plan. Bruce Andersen stated that the rezoning should be conditioned on that statement. Staff stated that by Ordinance it all ready is due to Article 11.4, and the 3 year language provided therein. Barry Hester questioned if they have said they will not build until they know the train is coming. Staff replied that they have not put that in their notes, and that is something they would have to agree to. Tracy Finch stated that if there is an opportunity for certainty with CATS and the timing of the line, they may be there before, but does not feel comfortable without the train that they can build the density of apartments and a deck without the train; that it isn't economically feasible. Their timing would be done with the understanding that the line is coming. Bruce Andersen asked if they would be willing to put a note in affect to this. Tracy Finch said that she could try, but did not want to box herself in to do anything until the line is there or when construction started. Joe Sailers made a statement to the developer that the plans are broad.

Kelly Neal, 17616 Caldwell Station Road, Huntersville, NC (the Children's Schoolhouse location) approached the Board with hand outs (see Exhibit "D"). She stated she was the President for the Schoolhouse this year, and was representing the school. She informed the Board that they found out about the rezoning after the first Public Hearing occurred. In her exhibit she provided the Schoolhouse's technical comments to the rezoning. Their two major concerns are Caldwell Station Road, and that that the project is now solely accessed by Caldwell Station Road, which is not adequate for construction vehicles, and they will come in front of the school. Caldwell Station Road is a 16' wide road, and Staff has tried to come up with a solution. However, she stated that they parallel park on the ditch type street in front of the Schoolhouse on a regular basis. If the width is brought to a 20' width it will be classified as a "lane" and will not be qualified to serve this type of use. Staff is looking at this from a temporary construction point, and she stated that the construction traffic will shut down the road. She further stated that the Fire Department will tell them they can no longer park on the road, and that they do not have ample parking and will have to create a carpool line which will back up the traffic. It is her understanding that the plan has not been approved by CATS. The developer and CATS have not secured either entrance. She felt that the plan should be tied to conditions of an entrance to service this type of site, and not Caldwell Station Road. From a construction stand point as well as a future use stand point. She stated that there are a lot of unknowns with the developer and they haven't seen each others notes and documents. Their biggest concern is the road issue. The second concern is the character of their building and what the station is going to do to the schoolhouse. They know that development is going to come and know that it will be a train station, but feels the plan has been pushed through and have not taken into consideration the delicate issues of the Schoolhouse (i.e. scale, massing, spacing, separation, buffering). It was explained that they have a playground that sits on the property line, and the children play against the fence line. They are also concerned with grading and there is only (maybe) a 10' or 20' strip shown, which they feel is a hazard to the children. She included that there are 50 children attending the school annually and they have summer camps to support their program so if construction during the summer were to take place it would still affect the Schoolhouse activities. They want to preserve their historical structure and there is spacing between them and the project, but there is also a potential for a 6 to 7 story building next to them since there are no conditions on the project. These being their two main concerns, she noted that they have other issues and they are trying to get what they can so they can survive. The trees have been talked about with the developer, and a 20' wide road will take the trees unless they shift the road toward the rail right of way, which there may not be enough room. They have questions of the Town working cooperatively with the developers with this type of project to work with a master plan to see what will be funded and what roads will be upgraded to service this type of project. She stated that she was not aware of any study that the Town has done on this site. To service that type of development she stated that Caldwell Station Road needed to be doubled in right of way width, which will enter into their playground that is located beyond the front of their building.

Whitney Hodges informed the public and Board that TOD allows for buildings up to 13 stories and this will apply to this project. Staff further informed the public that through the sketch plan process there are requirements for masking scale and feathering out, so to say that Staff would approve a 13 story building at the northern end next to their property verses inside a node does not meant the intent of the Ordinance.

Kelly Neal stated that she wants to know the conditions on the rezoning so they know what is going to be built beside them. She used the example of the white house on Gilead Road beside of the commercial use building and reiterated her scaling concerns, and density.

Bruce Andersen asked if parallel parking space outside the lane were provided would it impact the playground area. Ms. Neal doesn't know what the Town is looking at. Whitney Hodges explained that the transportation staff is comfortable with requiring widening to a minimum which is 20', and is basically the same as applied to other projects in a similar fashion. Staff gave examples of projects and improvements made to roads (Toll Brothers, Hawks Landings). Kelly Neal questioned Staff as to what type of street Staff is looking to have other than a temporary 20' right of way; that they want to know long term plans. Staff informed her that it would typically be a residential type street with curb and gutter, with sidewalk and street trees.

Kelly Neal, again spoke to the Board and stated that she is also as a taxpayer for the Town of Huntersville, and her overall concerns for this development is there are no plans in place for this project. There are numerous recommendations in adopted policies for the Town working together with the developer to create an overall comprehensive plan, which has not been done, and once the rezoning is approved it will be hard to down-zone a piece of property. If the rail does not come they say they can not do this project. They can do townhomes and apartments without the rail and come back to the Planning Board to request a rezoning for more apartments. She suggested that "we" are rushing this project for no apparent reason.

Bruce Andersen stated that there is not enough information to support this request. Joe Sailors suggested to the developer to work with Staff, knowing the developer will not get any further in negotiations with CATS, but to work out Staff's concerns. Tracy Finch replied that the unfortunate problem is they extended the Public Hearing by a month and their closing is at the end of March. They will not be able to get financing without the rezoning approved. If a deferral is recommended tonight the project will not happen. She added that they will not be able to get a CO on any building unless Access 1 and 2 improvements have been done as required in the TIA. Staff agreed that improvements have to be made with the first CO. Essentially, they are not impacting the roads until they actually build a building.

Kelly Neal again came to the podium and spoke to the Board and said that it was her understanding that the TIA is not done on the construction, it is just done on Phase 1. All the construction mass grading for the whole site can be done, all the roads put in, and all buildings for Phase 1 put in before any of the improvements have to be done. Staff reiterated that the developer can not get an Occupancy (CO). Kelly Neal continued to speak and say that the grading construction, buildings, everything, except for the power, and questioned Staff if her opinion was right. Bruce Andersen interrupted and explained to Ms. Neal that it does not make sense to build without power. Kelly Neal said that at that point you (the Planning Board and Town) would get a lot of pressure because the buildings are built but the right-of-ways are not required and they will need the Town's help to build the roads and get approvals (i.e. Caldwell Station subdivision).

Bruce Andersen asked Staff to expound on the error at Caldwell Station subdivision. Staff explained that when Caldwell Station development was approved they were required to do a dual left from northbound NC73 onto Caldwell Station Road, and a southbound right turn lane. At the Final Action the Town Board negotiated to pay into a fund instead of doing the improvements. The funds were used for improvements for signalization and timing at NC73 and additional right of ways. They also had to do left turn lanes at Will Knox Road and one other location. At the Will Knox Road location, the developers were having problems with acquiring right of way, and their first right of way agent did not go through the proper process. The developers brought the issue to the Town Board twice. In the end, condemnation was not used and the property owners were able to resolve the matter themselves. This is the closest that the Town has come to using their condemnation powers for right of way.

Tracy Finch addressed the Board and explained that they see the Schoolhouse as a neighbor. Since they have brought their concerns to the table we have moved roads to better accommodate them. We have committed to a buffer, but have not put a true dimension to that because we want the opportunity to work with them. Also, we have 40' of grade across the site, and if their concern is the possibility of a parking lot beside their playground it may be that the parking lot is several feet lower than the playground with a landscape buffer. So, our thought is the best solution before sketch plan is to work with the Schoolhouse.

Jack Simoneau, Planning Director approached the Board and showed the Gannett Flaming study that was done for in 2001 for CATS. It indicates the railroad crossing closings and proposed future crossings, one of which is near Caldwell Station Road. He further noted that according to the study Mayes Road is proposed to be closed. CATS is now looking at leaving that open and they are doing engineering work for the Mayes crossing and design work to lower the rail so it is not as difficult to cross as it currently is today.

Barry Hester noted the recommendations for improvements for NC115 and Mayes Road, and stated that an improvement is needed at Caldwell Station Road and Mayes Road at some point to accommodate traffic. Whitney Hodges explained that it was based on dispersion, and Mayes Road may not be signalized. When coming to the transit and retail area it will be easier to come down 115 rather than coming on Caldwell Station Road and meandering through the site. Barry Hester commented that if there is trouble with having Access 1 or 2, Caldwell Station Road will be more utilized, and again questioned if something should be done to Caldwell Station Road. Staff reiterated that if one of the Access points are closed the developer can not get a CO without having to re-do the plan and come back through the public process.

Barry Hester questioned how many transit stations are planned in Huntersville, and Jack Simoneau responded three; this plan, Town Center and Bryton. He further stated that the number of parking spaces at Sam Furr Station will be much larger along with Bryton, and fewer spaces provided at the Town Center due to space limitations, and connections to NC73 and I-485. Barry Hester asked if this was enough to service the people of Huntersville, and Mr. Simoneau said it would be for the initial phase, and they may add decking in the future. Discussions have already taken place about how to phase when building a deck to accommodate parking.

The Board members discussed having a Special Meeting in order to make a recommendation on this matter. The developer requested clarification on all Board issues. Bruce Andersen stated that he was not ready to make a recommendation and questioned the distance between Access 1 and 2, and if is there sufficient stacking for north and southbound traffic. Staff affirmatively responded that there is sufficient stacking with approximately 1100' between access points.

Joe Sailers clarified the Board's comments, suggestions and concerns, as follows:

- 1) Temporary parking for the Schoolhouse during construction,
- 2) Maintaining through traffic on Caldwell Station Road during construction,
- 3) Tree save at entrance on Caldwell Station Road,
- 4) Heights to be better defined and noted on the plans – not to be averages in limited area,
- 5) All submitted meeting notes be included on the plan and worked out with staff,
- 6) If the rail line/transit station does not transpire and this project should fail due to that consideration, the developer should be made to re-file with plans without a Transit Oriented project,
- 7) That if the southern entrance of the project fails and not be opened that this plan come back before this Board for further recommendation, and
- 8) That the Transportation Department and planners provide more traffic details and information on the access points for Mayes Road and Caldwell Station Road.

Bruce Andersen noted that the developer does not have a letter of commitment with CMUD, and asked if they had a commitment to apply. Tracy Finch responded that they have requested to be put in the 5 year CIP plan, which is a huge cost to the developer. The next step will be to work with Huntersville, CATS, and CMUD for other funding sources.

Joe Sailers commented to Staff that Note #24 states that the plan has not been reviewed by Mecklenburg County, which Staff agreed, and stated that the developer requested to do this at the sketch plan process. This is acceptable to Staff.

Bruce Andersen requested that the Transportation Department provide more specifics and information about Caldwell Station Road and Mayes Road, and to convey the concerns of traffic at specific times rather than some date in the future. He further stated that with the answers to these questions and concerns, the Petitioner does not have an opportunity to wait. It was the Board's recommendation that a Special Meeting be held on Tuesday, March 10, 2009. Staff requested from the Board that if they had additional concerns to contact her (via email) by Friday, February 27, 2009.

Jeff Neely made a **Motion to Defer** to a Special Meeting to be held on March 10, 2009 at 6:30 p.m. Barry Hester seconded the Motion. The vote was 7-1 with Nancy Clarke opposing.

3. David Peete, Principal Planner presented R08-11, which is a request by Crescent Resources, LLC to rezone 28.44 acres (+/-) located on north side of intersection of Eastfield Road and Prosperity Church Road from R (Rural) to HC-CD (Highway Commercial-Conditional

District) for an approximately 185,000 square foot commercial and office development. For ease of discussion, presentation and time management, Staff presented simultaneously the sketch plan for this project. A copy of the Revised Rezoning Staff Report and Revised Sketch Plan Report, are attached hereto as Exhibit "E" and "F" respectively, and incorporated herein by reference. Staff recommends approval subject to certain requirements and recommendations as noted in the both Staff Reports.

Staff showed the project plans and explained the four phases and node concept. The alignment for Prosperity Church Road was approved by MUMPO, which is incorporated into the plan. Staff noted that this is a gateway for Huntersville, and the surrounding property is zoned Rural. Staff wants the highest level of development quality and elevations in this area. Staff stated that annexation is on the table for this project pursuant to the Town regulations.

Staff noted some concerns of the plans, as follows. The primary entrance of the development is confusing with the drive through for the anticipated pharmacy, which will be better defined during the preliminary process. There are two other issues to address:

1. Bike lanes on Prosperity Church Road and Eastfield Road. The Prosperity Church Road is in the Huntersville jurisdiction, unlike the Eastfield side which is CDOT and NCDOT. There is a full right of way for Prosperity Church Road being set aside, and sidewalks are being provided. Staff recommends that a wide outside lane with striping is what the Transportation Review Committee would suggest. Bruce Andersen stated that in his research the bike lanes do not increase the safety of the cyclist, and Staff responded that the Police Department did stress that if you do not stripe it they have problems with it.

2. Staff is concerned with road connections during Phase 3 and 4. The public road coming in off of Prosperity Church Road is completed during Phase 4 for the connection to Eastfield. Until Phase 4 is being developed the connection of the public street will move through the parking area. The parking lot is not set up to function as a public street. The recommendation is that either a redesign of the parking area be made, or the connection be required during Phase 3 rather than Phase 4. Their transportation consultant will address these issues.

Susan Irvin, Esquire, appeared before the Board on behalf of Crescent Resources (the developer). She briefly spoke to the Board concerning the history of the project. Crescent Resources has worked with Olmsted neighborhood and with the style of monumentation to make the project cohesive. In Phase 1 much of the infrastructure will be installed, i.e. the first leg of Prosperity Church Road and key access points. It is proposed to align the access from this project site to the Olmsted subdivision during Phase 2. If Olmsted has not completed their leg of the road, Crescent will either build their stub or escrow, bond or post a letter of credit for that consideration. The access will be important to Olmsted and avoid traffic through the McGinnis neighborhood that is adjacent to the site. She presented detailed elevations using stone features that are being considered for the project.

JoAnne Miller raised the concern of individual property owners near the project who are unhappy about the road alignment. Susan Irvin responded that Steve Blakley will address that

issue.

Steve Blakley, with Kimley-Horn & Associates, Inc. introduced himself to the Board and spoke about the roads for the project including the intersection at Eastfield and Prosperity Church Road. He gave the history of the intersection which was presented at the meeting on September 23, 2008 during the Prosperity Church Road Thoroughfare Alignment discussions. The modified alignment has been approved by MUMPO, and the alignment can now accommodate dual left turn lanes. If there was a lacking of citizen input, and MUMPO was willing to go back through that process then there could be consideration for modifying the angle on the northeastern leg of the site. Steve Blakely stated that it would be difficult to make a shift in the approved alignment without extending beyond the 500' length. JoAnne Miller thought the curve could be straightened to go behind the Silas Davis property. Staff stated that there is a provision in Olmsted that in that general area whenever an alignment is settled and Olmsted needs to make modifications to connect, Staff was empowered to approve the connection. The alignment has been approved and it does not affect the preliminary drawings of the connection.

Steve Blakley went on to say that the long term cross section for both Eastfield and Prosperity is a four lane divided road. With the crossing of the major thoroughfares there would be additional lanes to accommodate turning movement, with medians to separate opposing flows.

Nancy Clarke questioned the connection with Olmsted, and Staff replied that until the connection with Olmsted is complete it will only be an entrance to that developed Phase.

Joe Sailers asked if the approved alignment goes through the Silas Davis house. Steve Blakley noted that this project did not change the alignment, or affect his property. Joe Sailers acknowledged that Silas Davis' argument should be with the thoroughfare plan and not with Crescent Resources. Steve Blakley further stated that through the MUMPO process there were at least two sets of hearings for public input and additional hearings with the Town of Huntersville and Charlotte DOT. Staff further noted that on September 23, 2008, the Planning Board approved the alignment, and the Town Board approved it on October 6, 2008. JoAnne Miller feels that that the alignment is vague for the Davis property. Susan Irvin stated that the extension during Phase 2 can be moved. Jeff Neely stated that if someone has a problem with the alignment they should go to MUMPO. JoAnne Miller asked if Crescent could shift the road, and Steve Blakley responded that they are not able to shift the approved road. Staff reiterated that if someone is unhappy with the alignment they need to communicate with MUMPO; that the Planning Board and Town Board weighed in on this issue last year.

Susan Irvin stated that they have talked about this plan with the Town since 2006, and they were instructed by Staff to go through the MUMPO process, and Crescent Resources paid Kimley-Horn & Associates, Inc. to assist those needs. Steve Blakley stated that in November 2006 the Town Board approved the Prosperity Church Road alignment and the modified alignment that was approved dealt with the curves on this site, and not beyond the site limits.

Steve Blakley discussed the connection during Phase 3 with the right in-right out driveway, which will not have any traffic captured from the west. The traffic will typically go to the parking field in the back of the site through the new connector rather than making numerous

turns to get to the parking field. Coming from the east the driveway will be used for the front buildings. Randy Poindexter questioned the amount of turns into the project along with the access points including the adjoining subdivisions. Staff responded that the movements would be in compliance, and Steve Blakley noted that if NCDOT sees it warranted they will install a median and force the right in-right out. During the first phase of the development there will be full movement on Prosperity Church Road, and unless NCDOT deems necessary to modify the movement it will stay a full movement driveway for the site serving both sides of the site until further extended north all the way to NC73. The road will be posted as a 45 mph speed limit. Susan Irvin stated that the full amount of the right of way will be dedicated which is 6.5 acres (+/-), and is 25% of the entire site. Staff noted that all TIA requirements on the Huntersville side are shown on the plan, and are satisfied.

Concerning the bike lanes, Steve Blakley stated that the right of way is being set aside for that ultimate section of the road. In this case, the bike lanes are not connected to anything but a driveway that is serving the site in the interim. In the long term as the road gets widened to the curb and gutter section there is the right of way for the striping to be added. He noted that we may never see the road connected through to NC73. Kimley-Horn suggests that it be a future roadway improvement once the ultimate section is built. When working on the design permitting it is the goal to minimize cost and future road construction tear-out.

Susan Irvin added that the transportation improvements and repairs for the intersection at Eastfield with adequate right of way will be funded by the developer, an amount that is extensive and does not include the road extension on the Huntersville side. The cost will be 2.6 Million for the construction and design, and 1.2 Million for the intersection re-alignment which has nothing to do with the project itself, but fixing a prior problem. In addition, the traffic signal and utilities will need to be relocation at the intersection along with the phone bank. Crescent will acquire additional right of way on Eastfield Road. They will expend 1.1 Million in right of way dedication on Eastfield Road which would have been required on the other side (Charlotte). The financial constraints of creating the first leg of Prosperity Church Road Extension include going through the MUMPO process and correcting the alignment of Prosperity Church Road and Eastfield Road on the Charlotte side in addition to right of way dedication.

David Niekamp with Crescent Resources spoke to the Board and told them that in phasing the project as illustrated, Phase 1 will be closer to the intersection which improvements will be done first. Within the next couple of years the two corners will be developed and then Phase 2 will be done. There is no time frame for Phase 3 and 4 because of the economy and that will be market driven. The first thing is the intersection, dedicating the right of way and this will allow the development to build out in the described phases.

Nancy Clarke asked about Highway Commercial (“HC”) property. Susan Irvin stated that the permitted use under HC include commercial uses which is a broad category that includes nightclubs which have been omitted. Nancy Clarke asked about car repair and garages, and Susan Irvin stated she will look at that with Crescent and their marketing team. Staff stated that automotive uses are allowed in some capacity in HC.

Bruce Andersen wants stronger language in the Staff recommendations concerning comments for site plan issues. Staff responded that these are conditions that the Board can look to the developer to agree in your recommendation to the Town Board. They are not requirements by Code, they are recommendations listed in the Staff report. Bruce Andersen questioned Staff about the bike lanes, and staff stated that the MUMPO cross section calls for the provisions from the Olmsted entrance to Eastfield Road and the bike lane provisions need to be part of one of the phases.

Staff included that the latest versions of elevations were recently received, and Staff requested that the Board defer to staff on this matter. Also, the 30' buffer issue was raised by McGinnis Village neighbors, which is a requirement by Code. Rain gardens and storm water features may encroach 100% into the buffer, and could affectively remove the buffer. The recommendation is to make a minimum level to not initiate the rain garden provision. Susan Irving stated that it was discussed, and believes there are other areas on the plan to have a buffer greater than 30', and there may be places where a rain garden may invade the buffer. With any agreement, she does not want to create a situation for her client that they would need to request a variance from the Board of Adjustment due to the fact that they added a condition on the plan that is not required by Code. Therefore they added a note on the plans stating that the developer would use commercially reasonable efforts to stay out of a 15' (recommended) buffer when constructing rain gardens. Crescent will use every effort to not invade the buffer. She further noted that it is unlikely for obvious reason there would be a rain garden in the upper area of the project (highest point of site) Also, the applicant is doing everything required by the Ordinance, and going beyond that and agreeing to many things that are not required. The only concerns expressed are where we do not know the answer and creating a variance situation. In the case of the access, the point was approved and moved at the request of CDOT, and Crescent has worked hard to provide plenty of access to the back portion of the site. Crescent has made a commitment to Mr. McGinnis that they will not go into his property until Phase 4. As pointed out on the bike lanes, there is a great deal of right of way that is being dedicated and the re-alignment cost (on and off site), and to ask the developer to spend more money to build a bike lane that is going to be ripped out and rebuilt later should not be recommended. Crescent has in good faith addressed everything they have been asked to do.

Staff noted that they are not recommending in regards to the bike lanes that they build in such a fashion that it has to be torn out; that would be the developer's preference. The project located at the north end of Prosperity Church Road has over 1900 linear feet of two much more significant bike lanes. Susan Irvin intervened and stated that they are not building and they have not gone through the MUMPO process, nor are they fixing the alignment problem on the other side of the road. Barry Hester asked if they should put bikes lanes where the gutters are, yet separated from the road. Staff stated that the cross section of the road needs to be handled by the Transportation professionals, and two lanes can be done on one side, in the middle, on the outside, but one of them will have a more likely scenario that the bike lane is removed in some fashion, and one will set the lane to stay for the duration. A bike lane is a required element of the project. Jack Simoneau discussed the project to the north, and stated that what they decided to do is to build the outermost lanes to accommodate a bike lane with a wide grass median for future widening. That was their solution.

Addison Causey wanted clarification on the bike lane, even though half of the road is only being built. Staff stated that the TIA requires only two lanes, but it does not change the bike lane requirement. Both sides will have sidewalks near the edges of the right of way and should not need to be moved. Barry Hester suggested that they install multi-use paths for the sidewalk and bike lane. Staff stated that a 10' multi-path was acceptable on the north side and stands to reason it would be acceptable on the south side. It is Staff's recommendation that the bike lane is required and the details can be worked out. Staff is not asking for the Board to solve the issue, but whether they are installed or not.

Joe Sailors questioned the buffer and water detention pond located on the southwestern section of the project. It appears that it is the only feature that will affect adjoining property owners or drivers on Eastfield Road. Staff informed the Board that there are previous examples of using 10' to 15' buffers, which is a compromise. Susan Irvin stated that the adjoining property located to the west is the parking lot for the amenity center, and it is where the project ties into the storm water system. Kevin C. Ammons with ColeJenest & Stone, PA will want to engineer that corner before making a commitment.

Kevin Ammons introduced himself to the Board and pointed out that the proposed storm water basin is adjacent to the parking lot of the amenity site. The issue is where you have to put your out-fall and where you actually tie in underground. It has been provided in the plans that the features have been kept out of the buffer, but we don't want to limit ourselves if we do have to encroach slightly, although it is not foreseen. Susan Irvin stated that Crescent will agree that they would not exceed 15' in the buffer at that location.

Susan Irvin announced that if possible and as an alternative, Crescent is willing to increase the sidewalk from 8' to 10' to make it a multi-purpose path on Prosperity Church Road.

Addison Causey made a **Motion to Approve** the rezoning request subject to staff's comments with respect to the site plan issues exception for item #1, and it is suggested, as follows:

1. To allow phasing in the way presented tonight; and the secondary access for the small buildings in Parcel C and D without extensive changes to accommodate the right in-right out on Eastfield until installed;
2. That the developer accommodate all transportation issues with the exception that staff work with developer to allow an increase in size for the sidewalk to serve for both walk and bike path for good, reasonable and financial sense; and lastly,
3. That the developer offer and we except a note on plan with respect to the storm water feature on southwest corner of the site that no encroachment be made beyond 15' for an opaque buffer for LID purposes.

In considering the proposed rezoning of the Huntersville Village Conditional Rezoning north of the intersection of Eastfield Road and Prosperity Church Road which is approximately 28.44-acres, the Board finds that the rezoning is consistent with the Town of Huntersville Community Plan, and recommends amending the Zoning Map for Rezoning Petition R08-11 from Rural (R) to HC-CD (Highway Commercial-Conditional District) as being reasonable and

in the public interest.

Jeff Neely seconded the Motion. The vote was 7-1, with JoAnne Miller opposing.

4. David Peete, Principal Planner moved the Board forward with the Huntersville Village Sketch Plan and brought to the Board's attention the requirements that are to be met (i.e. Stormwater Concept Plan, and a *Willingness to Serve* letter from Charlotte-Mecklenburg Utilities), both of which are required for approval. Staff further stated that the bike lanes have been addressed, and the entry to Street E at Building H needs to be designed at preliminary review (conflict mentioned during rezoning). The buffers have been addressed, and the buffer for BMP's. Street E has been proposed to be private and does not need to be public to satisfy the Code, however, it is the primary entrance from Prosperity Church Road and Staff would prefer that it be public. The applicants are looking to construct to public street standards, but have not yet made their decision. Staff recommends approval of the Sketch Plan, with recommendations.

Susan Irvin, Esquire indicated that Crescent would like for Street E to be public, but there is a problem area. Further engineering needs to be done to straighten a particular curve and this will be known at preliminary review. Staff explained that the area mentioned is at the intersection of Street E and D where there is a "wiggle" in the road to accommodate rain gardens.

Joe Sailors made a **Motion to Approve** the Sketch Plan subject to providing a *Willingness to Serve* letter from CMUD, an approved Stormwater Concept Plan, and all staff comments satisfied, except as modified in the accompanying Rezoning recommendations for R08-11. Addison Causey seconded the Motion. The vote was 7-1 with JoAnne Miller opposing.

Other Business

Jack Simoneau, Planning Director gave a brief update to Board concerning the status of the proposed submission schedule that is being reviewed and considered by the Town Board. The process would include a joint workshop between the Board of Commissioners and Planning Board to be held after the Public Hearing and before Final Action. The joint workshop will be for any new issue(s) arising from the Public Hearing that would alter a Planning Board recommendation.

Adjournment

Barry Hester made the Motion to adjourn and Randy Poindexter seconded the Motion. There being no further business the meeting was adjourned at 10:00 p.m.

Approved this 24th day of March 2009.

Bruce Andersen, *Chairman*

Michelle V. Haines, *Secretary*