



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

The Regular Meeting of the Planning Board was held at the Huntersville Town Hall at 7:00 p.m. on October 28, 2008.

Call to Order

The Chairman called the meeting to order at 7:10 p.m.

Board Member Attendance

Chairman Bruce Andersen, Vice Chairman Brian Hines, Addison Causey, Nancy Clarke, Leonard Cook, Barry Hester, Jo Anne Miller, Sam Mount, Jeff Neely, Randy Poindexter, and Joe Sailors.

Planning Staff Attendance

Jack Simoneau, Planning Director, Bill Coxe, Transportation Planner, Whitney Hodges, Senior Planner, David Peete, Principal Planner, and Bradley Priest, Commercial Planner.

Consent Agenda

Jeff Neely made a **Motion to Approve** the Minutes of the September 23, 2008 Regular Planning Board Meeting. Addison Causey seconded the **Motion**, and the vote was unanimous.

The Chairman suggested that an Agenda change be made for time management purposes. It was agreed to move Item C concerning the Presbyterian Hospital expansion immediately after Item A.

Action Agenda

A. Bill Coxe, Transportation Planner, presented to the Board the three (3) options for thoroughfares contained in the Northwest Huntersville Transportation Study. As explained, the Beatties Ford Road Corridor Small Area Plan adopted by the Huntersville Town Board in September 2007 suggested several modifications to the Mecklenburg-Union Metropolitan Planning Organization's (MUMPO) official Thoroughfare Plan in the vicinity of the NC 73/Beatties Ford Road intersection. The MUMPO staff agreed to lead a study process to analyze the proposals and take them through the public involvement process. The Town Board desires that the MUMPO make a decision on proposals for the Vance Road Extension at the MUMPO's November 19, 2008 meeting.

The process being followed examines the design year of 2030 for an understanding of the transportation needs at that point in the future. The concepts that have been developed are tested using conventional analysis tools to determine how well the intersections will perform, and

include cost estimates. The primary focus to date has been the area of the intersection of NC 73 and the road currently known as Vance Road Extension.

Three public workshops have been held, culminating in one on October 16, 2008. Hard copies of the three alternatives (one of which is phased) were presented to the Board (see attached Exhibit "A"), and are identified below as Option 1, 2 and 3. The greatest challenge facing the community rests in how traffic northbound on Vance Road Extension will turn left (west bound) onto NC 73 to head toward Lincoln County. Various configurations of turn lanes and interchange configurations are proposed to handle this movement. The public discussion of these options resulted in their modification to deal with as many concerns as can be reasonably accommodated.

Option 1: Phase 1 includes two new intersections with NC 73, one west of Beatties Ford Rd and one east of Henry Lane. Appropriate turn lanes allow adequate intersection operation in 2015. Phase 2 extends Vance Road Ext farther west to a new interchange with NC 73 to accommodate 2030 traffic.

Option 2: The intersection would include a "trumpet interchange", which has a two lane loop ramp for the northbound to west bound traffic. It will consume more real estate and the impact will be greater to the south.

Option 3: Responds to public comments from the April 16th meeting requesting an NC 73 realignment south of the current route. It includes a surface intersection with three left turn lanes to handle the traffic turning from Vance/Gilead Road onto westbound NC 73.

Bill Coxe handed out to the Board a matrix (see Exhibit "B"). The factors used in consideration of the matrix were: Historical and cultural resources, homes and businesses taken, how many structures were impacted within 100 feet of the right of way; natural resources, and congestion. It was found that no official historical sites were affected; impacts to one cemetery at Brown Mill Road, two (2) churches (Gilead Presbyterian Church and South Lake Christian Church), one (1) subdivision; Hager's Ferry due to widening of NC 73, and no impacts to public parks. Option 1 illustrates that 7 homes and businesses would be taken compared to eight (8) in Options 2 and 3. Staff pointed out that no weights have been assigned to the factors. At this time, Staff does not have a recommendation of which Option to support.

Bruce Andersen pointed out that although the Houser House and Blythe House are not designated as Historical Landmarks they were worthy of recognition.

Leonard Cook commented that if weights were not used then the decision to select an option would not be reliable. The members further questioned staff concerning the options; i.e. the three (3) left turn lanes, and maintaining the rural character of the area. Staff pointed out that the trumpet interchange is close to a full interchange, and it eliminates the conflict with the two lane loop ramp with a big footprint. The original location of the proposed Vance Road was designed to go through the property where the Grease Monkey business is now located, which was built after the alignment was proposed but not preserved as an option. The alignment change is due to the Beatties Ford Road Small Area Plan recommendation, and the NC 73 Corridor Study recommended a study of the intersection itself.

Sam Mount recommended that the Board defer this matter. The Board feels that they do not have adequate information to make a decision to vote on this matter. Given the timeline of this meeting, the upcoming Town Board and MUMPO meetings, the scenario of a *gun held to their heads* to make a decision still does not give them adequate time and information to make a recommendation. They discussed meeting options to gather information to expedite a recommendation, and that electronic meetings and/or decisions are not valid.

Bruce Andersen was concerned about preserving the option recommended by the Planning Board and/or Town Board. Staff advised that MUMPO will adopt a new alignment on November 19, 2008. Land development regulations will preserve the chosen option when modifications to the alignment are suggested, which is the case here with Grease Monkey. An official transportation corridor map prevents issuance of building permits for a three (3) year period within the identified corridor (example: 485 Outer Loop).

PUBLIC APPEARANCES BEFORE THE BOARD:

Dr. Ken Holtje, 14535 Hwy 73, Huntersville, NC. Dr. Holtje spoke to the Board and stated that citizens took their time on October 16, 2008 to come to the public meeting with the purpose of becoming more knowledgeable about issues surrounding them. They have spent the last two (2) weeks discussing the options, and trying to come up with something that would be useful to the Planning Board. The citizens are without deadlines, and could have waited until after the October 31st deadline for MUMPO to supply public comments. They decided to Petition in time for the Board's consideration of those thoughts and comments at this meeting. Bruce Andersen noted that the Petition has all 99 signatures, all of which support Option 3.

Troy Purvis, 15928 Bay Shores Drive, Huntersville, NC. He, and neighbors, feels that this decision is a no brainer. Anyone who lives on NC73 is concerned about access, and wants Option 3. He questioned tax revenues (individual real estate and commercial) since the citizen's tax dollars pay for road improvements. Wants a win-win situation. The loser might be small business owners that may be in the path of the alignment, but the road can be moved to the left to make it a win-win situation.

Walter Fields, Planner with Kimley-Horn and Associates, Charlotte, NC. He is conflicted on a number of levels with the options presented. First and foremost is the time given to evaluate the options presented, and the challenge of trying to guess at planning transportation can only be an educated guess when dealing with the short term and long term solutions. He suggested to the Board that the matrix has missing criteria that holds the most weight; "What is the likelihood of it actually happening? And, what improvements can be made to accommodate a large number of people right now?" Mr. Fields suggests that Option 1 may not be the thirty year solution but in both forms (early and late) has the greatest likelihood of actually occurring within some reasonable time and has the opportunity to make reasonable improvements in the short run which are not wasted by moving the roads in the long run. They have focused a great deal of time with looking at the roads with the Beatties Ford Road Plan. Option 3 moves the alignment but feels it is less likely to occur. Walter Fields does not suggest three (3) left turn lanes and is familiar with them. He suggested the best option is Option 1.

Mr. James Yon, 14501 Hwy 73, Huntersville, NC. He took the Petition to neighbors. The traffic study indicated 45000 cars daily on NC 73 with Option 1 and 2. Option 3 in this area the number would drop to 4100 and this area goes back to being a community. Asked the Board if they would like 45,000 cars a day in their neighborhood. He does not want the Town Board in haste to make a decision. Feels that Walter Fields works for the developer and stands to gain more with Option 1. He doesn't want the development to drive the location of the road.

Steve Knox, Huntersville, NC. Asked Bill Coxe why he did not like the three (3) left turn lanes in Option 3, and if there was an alternative. Bill Coxe replied that a fly over or trumpet interchange could be used, but those interchanges would add to the impact and cost.

Susan Holtje, 14535 Hwy 73, Huntersville, NC. It was brought up at the last meeting on the 16th concerning the three (3) lanes turn, and questioned if there is a plan to add another road? She felt that Option 3 has not been studied as a real alternative, with phases, and stated there is room to plan to meet everyone's needs.

Bruce Andersen asked Jack Simoneau, Planning Director, to address the phasing possibilities with developers. Jack Simoneau responded that any new submission has to comply with the TIA, and if a new subdivision is falling below the accepted level of service, the development has to fix the intersection or phase the development so that the intersection gets improved through some other manner. The conditional rezoning in question at this location was submitted prior to the traffic impact ordinance was enacted and is not subject to the Article 14, TIA, and predates the Article 13, APFO. The developer then sets the conditions on the rezoning. Bruce Andersen asked if they could approve a partial rezoning in that matter. Jack Simoneau replied that Option 3 may not give the ability to phase, but he has not thoroughly looked at all the options. Bill Coxe stated that he does not see the potential for incremental implementation for Option 3, but can talk to the consultants.

Various options and deviations to the alignment were suggested and discussed. However, the Board does not have consensus on this matter. Leonard Cook made a **Motion to Defer** a recommendation to the Town Board based on the limited information thus compiled and presented. Jeff Neely seconded the Motion. Randy Poindexter suggested that each member's support of the Options be entered into the record, as follows:

Option 1: Three members support

Option 2: No support

Option 3: Five members support

❖ Two members deferred from support of any option without necessary information to form an opinion.

❖ One member abstained

Joe Sailers recommended that the Motion be modified to include that Bill Coxe provide further information to the Board to make a recommendation. Leonard Cook **Modified the Motion to Defer** by adding to the Motion that a completed chart with Graded Alternatives be provided and that Staff make a recommendation. Jeff Neely seconded the **Modified Motion to Defer**.

The vote on the **Modified Motion to Defer** was 8-3 with Poindexter, Hines and Miller opposing.

Bill Coxe apologized in bringing this information in haste. He stated that he will provide the Board the electronic comments received from the public as well as the Petition.

B. Brad Priest, Senior Planner presented the request by Glenwood Development Company, LLC for a 3 year review to determine if rezoning should take place pursuant to the Code. The conditional district rezoning plan from Rural (R) to Highway Commercial-Conditional District (HC-CD) on approximately 6.73 acres is located on the northwest corner of the intersection of Beatties Ford Road and Mt. Holly-Huntersville Road, which has not been developed. The approved HC-CD designation still fits the Small Area Plan, and can remain. A construction document plan has been submitted for the road and driveway, and in that regard Staff would recommend that the zoning remain HC-CD. A copy of the Staff Report is attached hereto as Exhibit “C”, and incorporated herein by reference. Staff supports approval of this request.

Brian Hines made a **Motion to Approve** to keep the zoning as Highway Commercial – Conditional District, and Sam Mount seconded the Motion. The vote was unanimous.

C. Whitney Hodges, Senior Planner presented Petition R07-01, which is a request by JDH Capital to rezone approximately 23.59 acres at the southwest corner of Beatties Ford Road and NC 73 (PIN # 01313202, 01313201 and 01313104) from Highway Commercial to Highway Commercial-Conditional District (HC-CD) for an approximate 120,000 square foot shopping center. She advised the Board that the conditions were for limited uses, would be providing pedestrian services with focal points and crosswalks among other points of interest. A copy of the Staff Report is attached hereto as Exhibit “D”, and incorporated herein by reference. Staff does not support the request at this time because of the unknown location of the thoroughfare and several remaining site plan issues.

Bruce Andersen asked where the Town Board stands on this matter, and staff responded that they have remanded the decision to the Planning Board.

Whitney Hodges explained that Option 3 of the Northwest Huntersville Transportation Study will have dramatic impact on this site plan. Option 1 of the study has minor implications. Bruce Andersen felt that the Board needs to make a decision on this matter, and Jeff Neely brought up the fact that there are 18 bullet points from Staff that need to be addressed, including MUMPO realignment decision which affects this rezoning request. Staff advised that a separate sketch plan will be forthcoming in November. Staff and the developer have worked on providing this plan as a pedestrian friendly plan with urban open spaces. A buffer detail needs to be applied to this node.

Sam Mount stated that with the uncertainty of the transportation plans being offered in this area a deferral is recommended. He further made a **Motion to Defer** until MUMPO made a decision concerning the road alignment as discussed above, but no later than 30 days. Leonard Cook seconded Motion.

Brian Hines reminded the Board that Danny Phillips has waited two (2) years for a decision concerning this rezoning request. Sam Mount agreed that Mr. Phillips should not have been put in a position to wait on a road alignment decision, and a serious message should be sent to the Town Board to not waste any further time. Bruce Andersen added that the size of this project in a rural area including the Northwest Huntersville Transportation Study have been the cause of delay. He further added that the Board should convey questions to the planning staff so not to cause further delay to the applicant. Joe Sailers felt that a decision should be made on the application regardless of the transportation plans since the probability of road alignment is not likely to happen in the near future.

Bill Coxe addressed the Board concerning the widening of NC73 from this area to Cowan's Ford. Option 1 versus Option 3 will not change the road position in the long range implementation. What can happen is what can be done incrementally and what money might or might not waste in doing the incremental movement. The decision matrix for the Vance Road can be furnished to the Board, which is a weighted matrix and can be used as a source of reference.

Walter Fields with Kimley-Horn and Associates spoke to the Board on behalf of JDH Capital Development, Inc. He relayed that they have worked diligently with the applicant, Town staff and NCDOT and shares the frustrations and concerns. The plan is consistent with the Beatties Ford Road Small Area Plan. They have been reacting to requests at each step. It is fair to say that Option 3 is an "all or nothing" proposition to implement in phases to function efficiently. With any community, the path of least resistance is the most popular path. Focus is to develop a plan with the Beatties Ford Road Small Area Plan with a neighborhood shopping center at the location and scale that the plan called for, and comply with the Town's expectations. The details of the plan with the vast issues have been resolved. A revised plan has been provided to Staff. Option 3 includes property that is not part of this petition. It includes property that is not under contract with JDH Capital. If this is a viable site for this plan, with enhanced roads and improvements, all of which improve traffic in this area, it makes sense to improve the roads that are in existence today and that will work in the short and long term range. Option 1 is not a complete solution because it is away from the site. If Option 3 is chosen, it was stated that JDH Capital does not have a plan.

Bruce Andersen stated that he supports Option 3 because of its major direction is moving traffic. Option 1 appears to support the development and its marketing. Starting with the assumption that Option 3 will do less damage in the future, provides better flow and would not have a parking lot in front of JDH's facilities like the mistake at Northcross Shopping Center. Sam Mount proffered that Option 1 supports the Small Area Plan that includes a development.

Sam Mount called his **Motion to Defer** for 30 days, and Leonard Cook seconded the Motion. The vote was 9-2 with Joe Sailers and Brian Hines opposing.

D. David Peete, Principal Planner, presented Petition R08-06, which is a request by Glenwood Development Company for a conditional rezoning from Rural (R) to HC-CD (Highway Commercial-Conditional District) on 59.92-acres located along NC 73 at the intersection of Davidson-Concord Road to create a mixed-use development to include retail (including a grocery store), restaurants, offices and 118 townhomes. A copy of the Staff Report is attached hereto as Exhibit “E”, and incorporated herein by reference.

David Peete further indicated to the Board that they are not expecting a vote tonight. There is not a sketch before the Board, and discussions are being held with staff and NCDOT. The item is on the agenda to discuss and introduce the concept of the rezoning and the waivers in the rural area. Staff is supportive of the mixed use development, and has no issue with commercial use in this area. Additionally, the Area Plan supports it as well. The developer proposes to pre-fund the extension of water and sewer lines with Charlotte-Mecklenburg Utilities. The proposed Prosperity Church Road Extension serves a limited function until it connects to another minor thoroughfare. The Area Plan is being used as a guide. The Developer has reduced their waivers from approximately 15 to 5. The Area Plan calls for a node at the intersection and the uses (intensity) to feather out toward the Rural District. The Area Plan calls for feathering out, south of NC73 both east and west. The question becomes how to feather density within the proposed development. The left quadrant solution has been accepted by NCDOT, which is critical to layout the development. The buffers are important, and the applicant is now looking at the 30’ Town required minimum. The Board may want to consider whether certain uses and features require added buffers (i.e. gas stations).

The applicant stated that the 30’ buffer is around the commercial use portion of the development. The buffer around the creek for instance is more than 30’.

The proposed alignment for Prosperity Church Road is a MUMPO process with public input. Joe Sailors questioned how the proposed road will re-connect and phase in to what is there and being planned. Staff responded that MUMPO will provide solutions for what is in their control and ensure that a connection can be built.

The initial vesting request was for a seven (7) year period, which has been modified. The modified request is for five (5) years from adoption. Once a grading permit is issue they will get an additional three (3) years. Upon the issuance of the first building permit the vesting will be indefinite. The Town’s vesting is in three (3) year terms. This vesting request sets aside development options beyond our terms. Staff recommends that the three (3) year vesting remain. The extended vesting period alleviates the risks for the developer

Jack Simoneau, Planning Director, addressed the Board so they would understand the three (3) timelines that are being discussed; 1) Rezoning, 2) Subdivision Sketch Plan, and 3) the Adequate Public Facilities Ordinance. At the end of the three (3) year rezoning period, if nothing has taken place within the development, it must be submitted to the Planning Board for recommendation (see Item B above) to either change or have it remain as previously approved. Now, the developer is requesting the right to go back and request a change The subdivision

sketch plan also has a three (3) year term, and once the preliminary plan is approved you must prove 5% of total cost of improvements have been spent, then it's indefinite. The APFO time period causes concerns, but staff understands the sewer issue with CMUD. Mr. Simoneau wants the Board to be clear about the different time periods that are involved with this request.

Michael Schutrum, Glenwood Development addressed the Board and explained they need the additional time on this project because of the sewer lines and working with CMUD. That process requires a contractual agreement to be endorsed within six to eight (6-8) months. CMUD will be responsible for the engineering and construction within two years. Therefore, Glenwood may not be able to meet the first three year term due to the timeline with CMUD. It puts them in the situation of having to come back before the Board with the rezoning and sketch plan, and felt it better to ask up front. The APFO requires that you have a Certificate of Occupancy for the project within three (3) years.

Bruce Andersen asked for the start date of the project. Mr. Schutrum replied that based on assumptions with approvals it would be early to mid 2009. It may be June 2011 before the sewer is completed with a best case scenario. While the sewer is being installed we can be getting our permits. The APFO also allows that within 2 months we can ask for an extension. Our position is to take care of it now. It also presents a financing issue with the lender.

Dick Brolin with Piedmont Design addressed JoAnne Miller's concerns about the start of the project. He stated that the problem with the permitting process is that you can not do it all at one time. Before starting work on the project there have to be facilities there to support it. That means that the trunk line has to be brought to the property before availability, and serious plans can not be submitted for construction until that is done.

Jack Simoneau, Planning Director reiterated to the Board that this project does present issues out of the ordinary. The down side of setting aside (development) capacity is that other projects coming in the door now, that are ready to build, may have to wait. The capacity is reserved, and is a numerical process. David Peete added that if asked for an extension the staff would like to stay within the five (5) year state law parameter; thus giving a two (2) year extension.

Bruce Andersen asked Michael Schutrum if signing a contract with CMUD would satisfy their lenders? Schutrum felt they could consider something like that. David Peete requested that the Town Attorney be involved with that issue. Mr. Schutrum stated that if a contract is signed with CMUD, and within one year of approval, they would have four more years. They are open to discussions.

David Peete discussed the issue of 100% Attached Residential units that is proposed. If allowed, this intensification would be sought throughout Town, not just the Rural Zone. If there is merit to permitting a percentage of attached units higher than 30%, then a Text Amendment should be pursued. Staff and applicant are talking about this process. 118 units have been proposed, and 125 are approved. The Area Plan calls for preservation of Rural Districts, and density levels, and the levels proposed. However, the transitional areas need to be effective, and the buffer issues addressed.

Joe Sailers brought up the discussion of the buffers in a rural area and the buffers in a residential district. David Peete described the differences in the rural area based on density and type. The plan envisions multi-story mixed-used commercial uses in the orange area, and the orange and yellow area has the highest intensity residential (attached). The intensity is significant in this area. It is introducing a new concept within an Area Plan, and balancing the intensity.

Michael Schutrum included that the Small Area Plan recommends 8,000 square feet per acre in commercial, which is comparable to the plan. The Area Plan calls for 6 units per acre, and they have five; the neighborhood edge calls for 4 and the plan calls for 2.3 units per acre. In terms of density, they are trying to design the plan with that in mind, and working with staff to review alternatives to deal with 100% attached housing, and possibly place detached housing in the southern section, which would change the 36 attached houses in the southern section to detached single family.

Bruce Andersen asked if there were plans to move the gas station toward the center of the project? Mr. Schutrum stated it has been discussed, but does not work well with what they are trying to create at that particular area of commercial uses. With the configuration changes made for the quadrant left road, the piece on the northwest side, in their opinion; it works very well for that use.

The course of action is to first adopt the plan, or not; the TIA needs to be completed; other issue to discuss: the vesting periods; the 100% attached residential units, and the waiver of mechanical equipment and utilities being placed behind buildings. The developer wants to provide architectural solutions for placement on the public side. Additionally, the use of spandrel glass (faux windows) needs to be further discussed with Mr. Schutrum. Jack Simoneau, Planning Director, added that the faux windows are along blank walls. Regency Village is an example of the concept, along with the drug store in Davidson, who is more restrictive. Lastly, if using front loaded garages a change of 36" in elevation is needed, which pushes them to be single or rear loaded.

Staff advised that the applicant has submitted a formal request to defer the open hearing. The Town Board must approve that request. The MUMPO process would have begun, and staff can produce plans that include NCDOT, and have this matter on the November Agenda but not be heard with a vote.

PUBLIC APPEARANCE BEFORE THE BOARD:

John Carmichael, an Attorney in Charlotte that primarily practices in Zoning and Land Use appeared on behalf of the Mayes Family. The major concern is that this matter seemed to be ushered far too quickly with the number of issues mentioned tonight. He further stated that he is pleased that things appear to be slowing down, and invited the developer to communicate with the Mayes about their significant concerns; the alignment of the road and density. He further urged the Board to not make decision in November if a different plan is proposed. There is a Public Hearing that is not closed because of an evolving plan. Simply put, his client (Mayes) has concerns with the plans, and would like to be more collaborative. A particular off-site

transportation improvement is a little different as it appears that the access is entirely reliant on a third party owner. Concerning the five-year vesting, the Board has to decide if they like the project and if they want the developers to time, effort and money in long range planning. If they do, and it complies, there is no problem with five year vesting. Joe Sailors questioned if the developer has contacted the Mayes, and Mr. Carmichael stated that they want additional dialogue, specifically when there are changes.

Ed Wadsworth, 13414 Scanlan Way in Page's Pond, Davidson. Concerned about the impact on the Mayes Road intersection, and the impact relative to the new (high) school; NC73, Black Farm Road and traffic from McCord Road. There has been discussion and wants to understand the 30% attached residential. the commercial property and what drives this project and feels it is fair to ask about the economics; i.e. what kind of density needed to be profitable. It is hoped that there will be feathering along NC73 as well.

Jane McWilliams, 18565 Carnegie Overlook Blvd., Davidson. Her comment was about the length of the development being 2 miles (from NC73 to the southern end). Bruce Andersen interrupted and he clarified with her that it is only approximately 3000 feet, less than one mile. She was mistaken.

Adjournment

Sam Mount made the Motion to adjourn and Barry Hester seconded the Motion. There being no further business the meeting was adjourned at 11:07 p.m.

Approved this 18th day of November 2008.

Bruce Andersen, *Chairman*

Michelle V. Haines, *Secretary*