

Mayor
Jill Swain

Mayor Pro-Tem
Sarah McAulay

Commissioners
Melinda Bales
Charles Guignard
Charles Jeter
Ron Julian
Danny Phillips

Town Manager
Gregory H. Ferguson



Department Heads
Max Buchanan, Public Works
Bill Coxe, Transportation
Michael Jaycocks, Parks & Rec
Craig Norfolk, Electric
Phillip Potter, Police Chief
Jack Simoneau, Planning
Janet Stoner, Finance

Assistant Town Manager
Gerry Vincent

Town Clerk
Janet Pierson

Town Attorney
Bob Blythe

AGENDA

Regular Town Board Meeting
February 6, 2012 – 6:30 p.m.

TOWN HALL (101 Huntersville-Concord Road)

I. Pre-meeting – 6:00 p.m.

- A. Closed Session – Personnel.
- B. Retreat follow-up discussion.

II. Call to Order

III. Invocation/Moment of Silence

IV. Pledge of Allegiance

V. Mayor and Commissioner Reports/Staff Questions

- A. Mayor Swain (MTC, NMIP Management Team)
- B. Commissioner Melinda Bales (Police Dispatch)
- C. Commissioner Charles Guignard (LNTC)
- D. Commissioner Charles Jeter (ASC)
- E. Commissioner Ron Julian (LNREDC Board, School Advisory Committee)
- F. Commissioner Sarah McAulay (MPO, COG, NC 73 COP, Planning Coordinating Committee, VLN)
- G. Commissioner Danny Phillips (Lake Norman Chamber)

VI. Public Comments, Requests, or Presentations

VII. Agenda Changes

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

VIII. Public Hearings

None

IX. Other Business

- A. Consider decision on Petition #TA11-11, a request by Jonathan Yates to amend Articles 3.2.1(a) and 9.9 to permit commercial communication towers up to 199' tall with conditions in the Rural Zoning District. **Attachment No. 1.** (Whitney Hodges)
- B. Consider decision on Petition #R11-03, a request by Pegasus Tower, LLC to rezone approximately 1.52 acres of a 19.52 acre parcel located at 9845 Mt. Holly-Huntersville Road from Rural to Special Purpose – Conditional District. **Attachment No. 2.** (Whitney Hodges)
- C. Consider endorsing the new route for Prosperity Church Road Extension as proposed by Cambridge Properties. **Attachment No. 3.** (Bill Coxe)
- D. Discussion of refinancing of debt and consider calling a public hearing. **Attachment No. 4.** (Greg Ferguson)

X. Consent Agenda

- A. Approve minutes of the January 17, 2012 Pre-meeting. **Enclosure.**
- B. Approve minutes of the January 17, 2012 Regular Town Board Meeting. **Enclosure.**
- C. Approve minutes of the January 23, 2012 Special Meeting. **Enclosure.**
- D. Approve budget amendment appropriating funds received in the amount of \$9,768.94 from Lake Norman Charter School for the months of August, September and October, 2011 to the Police Department's budget for overtime, benefits and vehicle cost. **Attachment No. 5.** (Janet Stoner/Chief Potter)
- E. Approve audit contract with Martin Starnes & Associates, CPAs, P.A. **Attachment No. 6.** (Janet Stoner/Greg Ferguson)
- F. Call a public hearing for Monday, March 5, 2012 at 6:30 p.m. at Huntersville Town Hall on Petition #R12-01, a request by Bowman Development Group to rezone approximately 1.76 acres from General Residential to Neighborhood Residential – Conditional District located at 12031 and 12101 Old Statesville Road. **Attachment No. 7.** (Whitney Hodges)
- G. Call a public hearing for Monday, March 5, 2012 at 6:30 p.m. at Huntersville Town Hall on Petition #TA12-02, a request by Stuart Mullen to amend Articles 3.2.9(a) and Article 12 and add 9.57 in order to permit with conditions Automotive Country Clubs in the Corporate Business zoning district. **Refer to Attachment No. 7.** (Whitney Hodges)
- H. Call a public hearing for Monday, March 5, 2012 at 6:30 p.m. at Huntersville Town Hall on Petition #TA12-03, a request by Town of Huntersville to amend Article 8.4.4 to extend the required maintenance guarantee time period from 1 year to 2 years (with conditions) for street improvements. **Refer to Attachment No. 7.** (David Peete)

XI. Closing Comments

XII. Adjourn

To speak concerning an item on the Agenda, please print your name and address on the sign-up sheet on the table outside the Board Room prior to the meeting. If you wish to speak concerning an item that is added to the Agenda during the meeting, please raise your hand during that item. Each speaker will be limited to 3 minutes.

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

ATTACHMENT NO. 1

**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:

Town Manager _____

Finance Officer _____

Town Attorney _____

To: The Honorable Mayor and Board of Commissioners
From: Whitney Hodges, Senior Planner
Subject: Text Amendment Petition # TA 11-11 – Add Commercial Communication Towers to the Permitted Uses in the Rural (R) Zoning District.

Consider decision on Monday, February 6, 2012 at 6:30 PM, Huntersville Town Hall. Petition # TA 11-11 is a request by Jonathan Yates to amend Articles 3.2.1(a) and 9.9 to permit commercial communication towers up to 199-ft tall with conditions in the Rural Zoning District. *(Staff: Whitney Hodges)*

ACTION RECOMMENDED: Consider decision

ATTACHMENTS: Staff report
A—Zoning Ordinance, Article 9.9, Commercial Communication Towers
B—Application and Applicant’s proposed language
C—TA11-11 Ordinance with Town Board recommendations from January 17, 2012 Workshop
D—TA11-11 Ordinance with Planning Board recommendation
E—Email from Planning Board member Robert Cameron

ENCLOSURES: 1—Map of Eligible Parcels with the Proposed Text Amendment
2—Commercial Communication Tower Ordinance Comparison Table (no changes were made to document. Available on the case website)
3—Map of One mile radius of existing free-standing towers

FINANCIAL IMPLICATIONS: N/A

TA 11-11
Allow Commercial Communication Towers with Conditions
up to 199-ft Tall in the Rural Zoning District

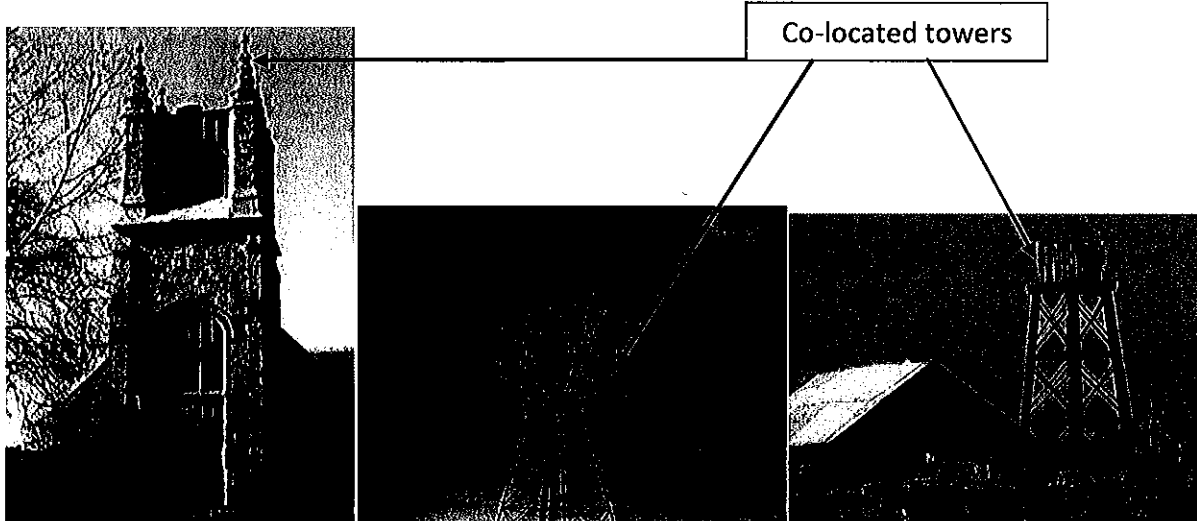
DESCRIPTION

This text amendment is a proposal by Jonathan Yates to amend Articles 3.2.1(a) and 9.9 to permit commercial communication towers up to 199-ft tall with conditions in the Rural (R) Zoning District.

BACKGROUND

In the Town of Huntersville, free-standing commercial communication towers are allowed as a *Use Permitted with Conditions* in the Special Purpose (SP) zoning district and the Corporate Business (CB) zoning district. New towers must meet the criteria found in Article 9.9.1-10.

Commercial communication towers are allowed in all zoning districts as an accessory use if they are co-located on existing conforming structures as required in Article 9.9.11. The current ordinance is found in *Attachment A*. Co-locations can occur on existing towers or other structures such as a light pole or a church steeple. Examples of co-location are below.



Pegasus Tower, represented by Jonathan Yates, submitted rezoning petition R11-03 to rezone 1.52 acres of a 19.52 acre parcel on Mt. Holly-Huntersville Road from Rural (R) zoning district to Special Purpose (SP) zoning district in order to construct a 199 ft-tall free-standing commercial communication tower. Staff was opposed to the rezoning because co-location is allowed in the Rural zoning district and the rezoning could be considered spot zoning. Spot zoning occurs when a relatively small tract of land is zoned differently from the surrounding areas. During the public hearing and Planning Board meetings, the importance of communication infrastructure was discussed. Mr. Yates requested that a decision on the rezoning be placed on hold until a text amendment could be processed. On August 31, 2011, Mr. Yates submitted a text amendment application that proposes allowing commercial communication towers as a permitted use with conditions in the Rural zoning district. The proposed text amendment states that commercial communication towers in the Rural district must meet six (6) additional conditions as well as meeting all the criteria of Article 9.9.1-10. The application and the applicant's proposed language is *Attachment B*. The Town Board's modifications to TA 11-11 taken

from the workshop on January 17, 2012 are *Attachment C*. The Planning Board has proposed alternate language which is *Attachment D*.

PUBLIC HEARING AND WORKSHOP COMMENTS

The public hearing was conducted on January 3, 2012. At the public hearing the Town Board wanted to add utility lines to the map with the eligible parcels (*Enclosure 1*) and better understand Charlotte's Wireless Communication Facility ordinances.

The Town Board decided that an additional workshop was needed in order to discuss details of the text amendment. The workshop was held on January 17, 2012. The Town Board's recommendations are in italics on *Attachment C*.

In addition to utility lines, there are changes to the eligible parcels map (*Enclosure 1*). The parcels in tan represent tracts of land that are 8.5 to 15 acres. Under the Town Board's proposal, these parcels could also be allowed to have commercial communication towers on them. Additionally, parcels zoned SP and CB have been added to the map to show what is currently allowed with the existing ordinance.

The Town Board also discussed a commercial communication tower separation requirement. Staff recommends requiring a one-mile spacing between free-standing towers. Of the jurisdictions compared in *Enclosure 2, Commercial Communication Ordinance Comparison Table*, three communities had spacing requirements which vary from 2,500 feet to one mile. *Enclosure 3* is a map that shows the existing towers and a one mile buffer around each tower. If approved, a new free-standing commercial communication tower could not be placed within the pink area, but could be placed outside of the pink area in addition to meeting the other criteria.

PLANNING BOARD RECOMMENDATION

The Planning Board recommended alternate language. Their approved recommendation included adding free-standing communication towers less than 35' in height as a use with conditions in the Rural zoning district. Any tower over 35' would then be considered a use with a special use permit. The recommended language is *Attachment D*.

In his motion, Planning Board Member Robert Cameron felt that from the Public Hearing discussion, any text amendment was also supported by Economic Development Policies in the Huntersville Community Plan:

- ***Policy ED-11: Utility and Transportation Infrastructure***
Continue to invest in utility and transportation infrastructure to serve and support targeted growth areas.
- ***Policy ED-16: Tourism***
The Town will support local tourism efforts and partner with other agencies such as "Visit Lake Norman" and "Destination Roundtable" as appropriate.

Mr. Cameron explained his rationale further in an email to staff which is provided as *Attachment E*.

STAFF RECOMMENDATION

Staff does not support the text amendment as proposed by the applicant.

Staff does not support the Planning Board recommendation for the following reasons:

- Staff concurs with the applicant that the current practice in commercial communication tower practice is to install fewer towers that have a greater range as well as using other types of technologies such as Distributed Antennae System (DAS) network to augment the wireless delivery system. As stated by Mr. Yates, many of the ordinances in the Comparison Chart (*Enclosure 2*) were written in the early 1990's when little was known about the wireless industry and have not been updated to how the population currently uses wireless technology.
- If approved, there are potentially 318 parcels in the Rural district where a 35' tall free-standing commercial communication tower could be allowed. A camouflaged, co-located structure would be better to protect the rural vistas.

Staff does support the text amendment discussed at the Town Board Workshop on January 17, 2012 (*Attachment C*). This amendment requires the tower provider to:

- Acquire a special use permit which will allow the Town Board the opportunity to look at specific issues of the site on a case-by-case basis.
- Lower the acreage requirement to 8.5 acres on an existing tract.
- Use a monopole design.
- Place towers at least a mile apart from one another.

At the workshop, staff was asked to look at a spacing requirement between free-standing towers and would recommend the text to include a one-mile radius spacing requirement between towers. This recommendation is reflected in *Attachment C*.

SUPPORTING DOCUMENTS

Attachments

- A—Zoning Ordinance, Article 9.9, Commercial Communication Towers
- B—Application and Applicant's proposed language
- C—TA11-11 Ordinance with recommendations from the January 17, 2012 workshop
- D—TA11-11 Ordinance with Planning Board recommendation
- E—Email from Planning Board member Robert Cameron

Enclosures

- 1—Map of Eligible Parcels with Town Board modifications
- 2—Commercial Communication Tower Ordinance Comparison Table
- 3—Map of One-Mile Radius of Existing Free-Standing Towers

STATEMENT OF CONSISTENCY

Per the North Carolina General Statutes § 160A-383 and Article 11.4.7 b-d of the Town of Huntersville Zoning Ordinance, amendment actions must be accompanied by a *Statement of Consistency*. Two statements are provided below that need to be incorporated into the motion either to approve or deny the petitioner's request.

[Approve]

In considering the proposed amendment to the Zoning Ordinance, *Articles 3.2.1(a) and Article 9.9*, generally, the Planning Board finds the amendment is consistent with the Town of Huntersville Community Plan and other applicable long range plans. We recommend amending the Zoning Ordinance. It is reasonable and in the public interest to amend the ordinance because..... (*Explain*)

OR

[Deny]

In considering the proposed amendment to the Zoning Ordinance, *Articles 3.2.1(a) and Article 9.9*, generally, the Planning Board finds the amendment is not consistent with the Town of Huntersville Community Plan and other applicable long range plans. We recommend denial of Petition TA 11-11. It is not reasonable and not in the public interest to amend this ordinance because..... (*Explain*)

9.9 Commercial Communication Tower

A Commercial Communication tower shall meet the following standards:

1. To encourage future shared use of commercial communication towers, the tower owner must demonstrate that the tower will support a specified number of antennas, and must file a letter of intent with the town to lease the space to other users in good faith. In turn, the owner may charge users a proportionate share of capital, financing, and operating costs, plus the cost of insulating equipment so that the transmissions do not interfere with one another. To encourage co-location of commercial communication antenna and facilities and to reduce the need for new commercial communication towers, co-location of such antennae and facilities shall be permitted on any commercial communication tower or tower for radio communication for business or governmental purposes of which the tower was in existence on July 20, 2009, regardless of when it was constructed, the underlying zoning district, or any condition of approval for the existing tower other than a condition which was imposed or accepted by the Board of Commissioners. To the extent practical as determined by the Planning Director, all standards of this Section 9.9 shall be applicable.
- .2 No new commercial communication tower may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the proposed tower is to serve.
- .3 The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings. Example: brown/green/gray.
- .4 Fencing must be provided to secure the communication equipment on site. If chain link or similar fencing material is used on the site, an opaque screen shall be provided on the exterior side of the fence.
- .5 All obsolete or unused facilities must be removed within 12 months of cessation of operations at the site.
- .6 No equipment, mobile or immobile, not used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made.
- .7 Towers shall not be artificially lighted except to insure human safety as required by the Federal Aviation Administration (FAA) regulations. To the extent possible, tower lighting shall be located and directed to avoid flashing or shining into the interior spaces of dwellings.
- .8 An opaque screen expected to reach minimum 8' height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing, and auxiliary uses such as parking. In addition, existing onsite trees and other vegetation shall be preserved to the extent possible.
- .9 No more than one communication tower shall be constructed on a single tract of land.
- .10 If such a structure is located on a lot adjacent to a lot or lots located in a residential or mixed use district, it must be located at least 200 feet from all property lines adjacent to the residential or mixed use district(s).
- .11 To be permitted as an incidental accessory use in any zoning district, a tower shall be camouflaged on, with, or in an existing or proposed conforming structure (e.g., inside religious institution steeple, on utility transmission line tower). A detailed site plan and structural elevations must be submitted to the Planning Department for approval. The affirmative decision of the Planning Department shall be based upon a determination that the proposed tower is so camouflaged as to be unnoticeable to the public; or if placed upon a utility transmission line tower, that the additional equipment would not further diminish the quality of the view from surrounding properties and public streets, nor would additional light(s) intrude upon the private interior or exterior living areas of existing dwellings.



Text Amendment Application RECEIVED

Incomplete submissions will not be accepted.

AUG 31 2011

Applicant Data

Town of Huntersville
Planning Department

Date of Application 8-26-11

Name: Jonathan L. Yates

Address 145 King St., Suite 102; Charleston, SC 29401

Phone Number (home) 843-414-9754 (work) 843-813-0103

Email JLY@hellman.yates.com

Fee

Text Amendment to the Zoning/Subdivision Ordinance Fee

\$400.00

Type of Change

New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change (if possible, please provide a Word document of the proposed text change)

Proposed text amendment will affect the following:

Ordinance: Commercial Communication Tower Article: 9 Section: 9

Current Text: The current text will remain as it is presently, but we will be adding a 9.9.12, as shown below.

Proposed Text: See attached.

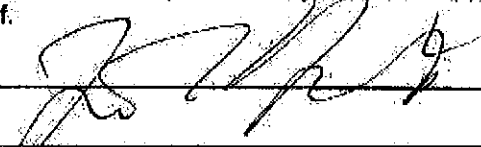
Reason for requested change (attach additional sheets if necessary): The purpose for this amendment is to provide the residents of the rural (R) districts of Huntersville with adequate access to wireless voice and advanced broadband that is enjoyed by the residents of the other districts in Huntersville.

NOTE: If the proposed text amendment effects property located along Hwy. 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Signatures

I hereby certify that the information presented by me in this application is accurate to the best of my knowledge, information and belief.

Applicant Signature:



Date:

08-30-11

Contact Information

Town of Huntersville
Planning Department
PO Box 664
Huntersville, NC 28070

Phone:

704-875-7000

Fax:

704-875-6546

Physical Address:

105 Gilead Road, Third Floor

Website:

http://www.huntersville.org/planning_0.asp

AN ORDINANCE TO MODIFY THE ZONING ORDINANCE ARTICLES 3.2.1 RURAL DISTRICT AND ARTICLE 9.9 COMMERCIAL COMMUNICATION TOWERS

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that the zoning ordinance is hereby amended as follows.

Under Article 3.2.1 a) Rural Zoning District, Uses Permitted with Conditions, add:

Uses permitted with conditions

- Cemeteries (9.7)
- **Commercial Communication Towers (9.9)**

Under Article 9.9 Commercial Communication Towers add:

.12 Commercial Communication Towers in addition to meeting criteria 9.9.1-10 may be allowed in the Rural (R) district only if they meet the following criteria:

- a) The height of the commercial communication tower may not exceed 199 feet above ground level;**
- b) The commercial communication tower may only be placed on properties in excess of fifteen (15) acres;**
- c) The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;**
- d) The commercial communication tower may only be placed on a property where it will not require artificial illumination;**
- e) The commercial communication tower must provide technically-suitable space for at least four (4) users;**
- f) The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any single family residential structure.**

Section 2. That this ordinance shall become effective upon adoption.

PUBLIC HEARING DATE: 01-13-12

PLANNING BOARD MEETING: 01-24-12

PLANNING BOARD RECOMMENDATION: Recommended approval of Attachment D (7-3)

TOWN BOARD DECISION:

Modifications to TA11-11 after Town Board Workshop held on January 17, 2012

→Town Board modifications are noted in italics and underlined

AN ORDINANCE TO MODIFY THE ZONING ORDINANCE ARTICLES 3.2.1 RURAL DISTRICT AND ARTICLE 9.9 COMMERCIAL COMMUNICATION TOWERS

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that the zoning ordinance is hereby amended as follows.

Under Article 3.2.1 a) Rural Zoning District, Uses Permitted with Conditions, add:

Uses permitted with conditions

- Cemeteries (9.7)
- ~~Commercial Communication Towers (9.9)~~

Uses permitted with Special Use Permit

- Agricultural industry (9.3)
- Commercial Communication Towers (9.9)

Under Article 9.9 Commercial Communication Towers add:

12 Commercial Communication Towers in addition to meeting criteria 9.9.1-10 may be allowed in the Rural (R) district only if they meet the following criteria and are subject to a Special Use Permit, according to the procedures of Section 11.4.10:

- The height of the commercial communication tower may not exceed 199 feet above ground level;
- The commercial communication tower may only be placed on properties in excess of fifteen (15) acres eight and a half (8.5) acres on a tract that existed as an eight and a half (8.5) acre tract or greater on February 6, 2012;
- The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;
- The commercial communication tower may only be placed on a property where it will not require artificial illumination;
- The commercial communication tower must provide technically-suitable space for at least four (4) users;
- The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any single-family residential occupied structure.
- All commercial communication towers in the Rural district shall be constructed using a monopole design.
- A new communication tower cannot be placed within a one mile radius of an existing tower.

Section 2. That this ordinance shall become effective upon adoption.

PUBLIC HEARING DATE: 01-13-12

PLANNING BOARD MEETING: 01-24-12

PLANNING BOARD RECOMMENDATION: Recommended approval of Attachment D (7-3)

TOWN BOARD DECISION:

Planning Board Modifications to TA11-11

→Planning Board Comments are in italic underline

AN ORDINANCE TO MODIFY THE ZONING ORDINANCE ARTICLES 3.2.1 RURAL DISTRICT AND ARTICLE 9.9 COMMERCIAL COMMUNICATION TOWERS

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that the zoning ordinance is hereby amended as follows.

Under Article 3.2.1 a) Rural Zoning District, Uses Permitted with Conditions, add:

Uses permitted with conditions

- Cemeteries (9.7)
- Commercial Communication Towers up to 35 feet above ground level (9.9)

Uses permitted with Special Use Permit

- Agricultural industry (9.3)
- Commercial Communication Towers in excess of 35 feet above ground (9.9)

Under Article 9.9 Commercial Communication Towers add:

.12 Commercial Communication Towers in addition to meeting criteria 9.9.1-10 may be allowed in the Rural (R) district only if they meet the following criteria

- The height of the commercial communication tower may not exceed ~~499~~ 35 feet above ground level;
- The commercial communication tower may only be placed on properties in ~~excess of fifteen (15) acres~~ eight and a half (8.5) acres on a tract that existed as an eight and a half (8.5) acre tract or greater on February 6, 2012;
- The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;
- The commercial communication tower may only be placed on a property where it will not require artificial illumination;
- The commercial communication tower must provide technically-suitable space for at least four (4) users;
- The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any ~~single family residential occupied structure.~~
- All commercial communication towers in the Rural district shall be constructed using a monopole design.

.13 Commercial Communication Towers in addition to meeting criteria 9.9.1-10 may be allowed in the Rural (R) district only if they meet the following criteria and are subject to a Special Use Permit, according to the procedures of Section 11.4.10:

- a) Any tower not regulated in 9.9.12 above, cannot exceed 199 feet.
- b) The commercial communication tower may only be placed on properties in excess of fifteen (15) acres eight and a half (8.5) acres on a tract that existed as an eight and a half (8.5) acre tract or greater on February 6, 2012;
- c) The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;
- d) The commercial communication tower may only be placed on a property where it will not require artificial illumination;
- e) The commercial communication tower must provide technically-suitable space for at least four (4) users;
- f) The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any single family residential occupied structure.
- g) All commercial communication towers in the Rural district shall be constructed using a monopole design.
- h) A new communication tower cannot be placed within a one mile radius of an existing tower.

Section 2. That this ordinance shall become effective upon adoption.

PUBLIC HEARING DATE: 01-13-12

PLANNING BOARD MEETING: 01-24-12

PLANNING BOARD RECOMMENDATION: Recommended approval (7-3)

TOWN BOARD DECISION:

From: Cameron, Robert H.
To: Whitney Hodges
Cc: Jack Simoneau; Bruce Anderson
Subject: TA 11-11 Amendment
Date: Wednesday, January 25, 2012 9:34:00 AM

Dear Whitney:

Per our discussion, here is the text and background for the motion (with amendment provided by me) that passed last night.

Background

Telecommunications infrastructure is indisputably critical to providing broadband services to *all* residents in the current environment where technology is evolving at an even faster pace than ever before. The purpose of my amendment is to try to get our ordinance more fundamentally updated than proposed by the TB to get it line with neighboring jurisdictions who appear to have been ahead of us in addressing this issue.

The chart which you provided shows that the majority of nearby jurisdictions allow construction of a CCT as of right subject to conditions in *all* zoning districts (the conditions turning on simple criteria including height and stealth). In contrast, Huntersville only allows CCT in two zoning districts, which essentially forces a tower provider such as the applicant to request a rezoning in order to serve customers in more rural areas. Given the clear difficulty this Applicant has faced in getting approval which has dragged this issue out for months, I felt that something needed to be changed.

There were voices heard last night to the effect that we should continue the policy underlying the present ordinance to encourage colocation which is obviously more aesthetically pleasing. However, the TA which we passed last night is not making any change to 9.9.11, and I stated on the record last night that some form of TA is needed because obviously the policy to encourage colocation, in place for some time now, hasn't worked. The discussions and submissions in the public hearings have made clear that our rural residents are underserved at the present time - if colocation alone worked, these residents would already have adequate access to broadband services.

Policy ED-11 and Policy ED-16 in the Community Plan call for the TB to support investment in utility infrastructure and support local tourism efforts (where the discussions in the public hearings have made clear that visitors to our tourism attractions in Rural Districts are not able to get a clear signal based on current infrastructure). The amendment we passed will come closer to fulfilling this objective by taking things a step further than the TB did with its recommendations in Attachment C.

The TA as amended

Article 3.2.1 a) Rural Zoning District, Uses Permitted With Conditions, add:

Commercial Communication Towers up to 35 feet above ground level

Rural Zoning District, Uses Permitted With Special Use Permit, add:

Commercial Communication Towers in excess of 35 feet above ground level

add Article 9.9.12 , same as Petition TA 11-11 (Attachment B), **except:**

- 9.9.12(a) - change 199 feet to 35 feet
- 9.9.12(b) - change from fifteen (15) acres to 8.5 acres - same as Attachment C
- 9.9.12(f) - change from "single family residential" to "occupied" - same as Attachment C

9.9.12(g) - add same as Attachment C

add Article 9.9.13, same as Petition TA 11-11 (Attachment C), **except:**

Commercial communication Towers **in excess of 35 feet above ground level** in addition to meeting criteria 9.9.1-10 may be allowed....

9.9.13(h) - modify as necessary to adopt Staff recommendation of 1 mile separation

Additional Comments

1. **My amendment did not include in Article 9.9.12 adding (h) - the 1 mile separation requirement.** I'm not sure that my fellow Board members realized that when they cast their vote. I understand from Jack that Staff has some reservations about my amendment, so I do want to let you know that I have no problem with adding (h) to Article 9.9.12. *So in other words, the only difference between my amendment and the TB workshop recommendations could be that under my amendment, the Town will allow construction of smaller standalone towers as of right subject to conditions - whereas taller standalone towers will be subject to a SUP.*

2. The Applicant commented last night that noone in his industry constructs 35 feet CCT anymore, implying that the other towns' ordinances are obsolete. Obviously, I am not in position to question this. I do want to say that I agree with Bruce that there is not a practical benefit to my amendment for the residents if the Applicant is correct about this. My suggestion is that Staff perhaps look into this, and if a larger number (but obviously well less than 199 feet which I understand is a ceiling under FAA regulation) is appropriate, the TB should feel free to change the number of feet. I took the 35 feet from the other ordinances, and that was the only reason for that.

I hope this helps and look forward to being of any further assistance.

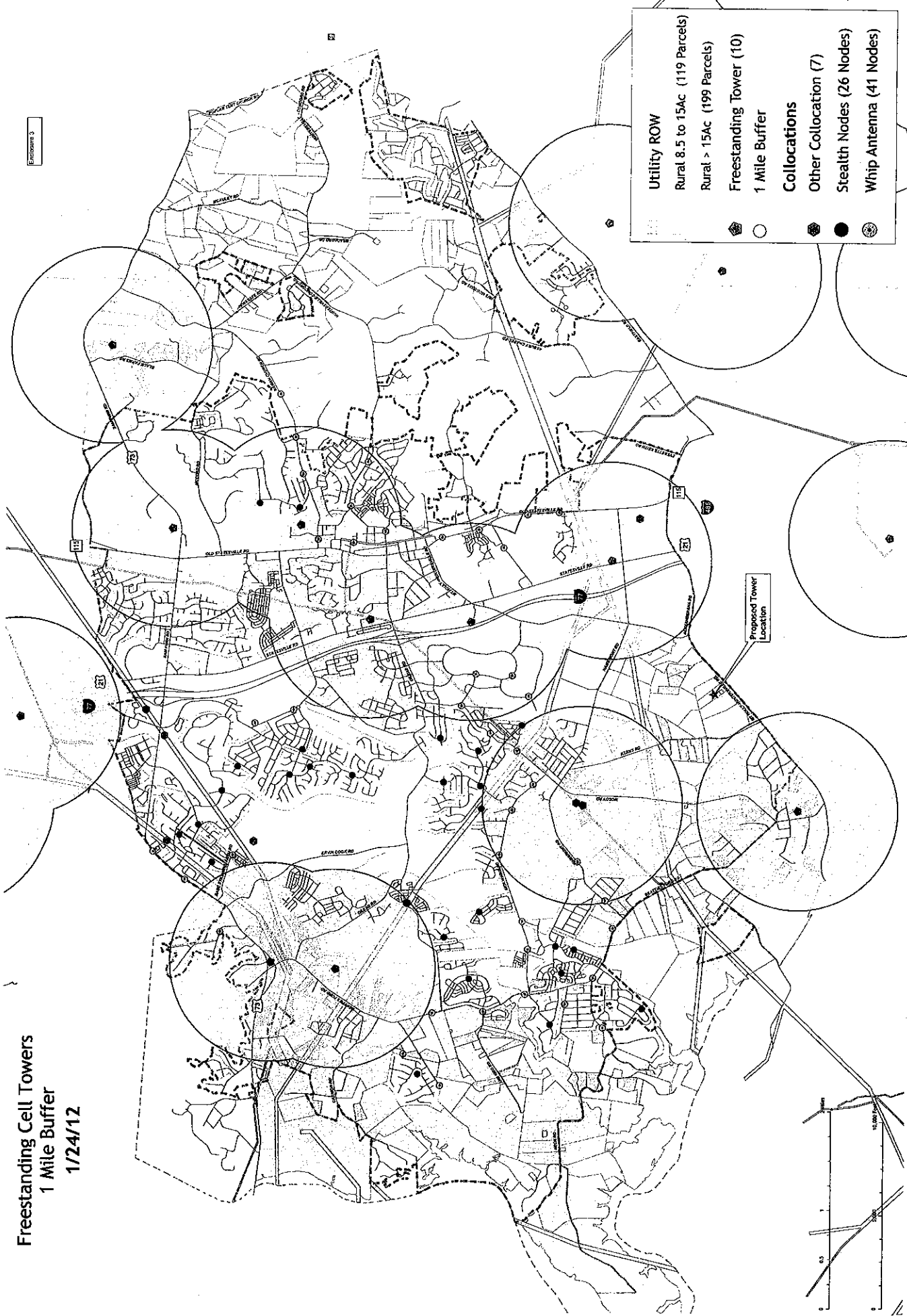
--Rob Cameron

Robert H. Cameron
ROBINSON, BRADSHAW & HINSON
101 North Tryon Street, Suite 1900
Charlotte, NC 28246
P: 704.377.2536
F: 704.373.3958

rcameron@rbh.com
www.rbh.com

This message is intended solely for the addressees and may contain information that is confidential and privileged. If you have received this message in error, please notify me immediately by electronic mail or telephone.

**Freestanding Cell Towers
1 Mile Buffer
1/24/12**



ATTACHMENT NO. 2

**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:

Town Manager P
Finance Officer _____
Town Attorney _____

To: The Honorable Mayor and Board of Commissioners
From: Whitney Hodges, Senior Planner
Subject: Rezoning Petition # R11-03 – Reames Cell Tower. Rural (R) to Special Purpose-Conditional District (SP-CD) (Pegasus Tower, LLC)

Request to consider decision on Monday February 6, 2012 at 6:30 PM, Huntersville Town Hall. Petition # R11-03 is a request by Pegasus Tower, LLC to rezone approximately 1.52 acres of a 19.52 acre parcel located at 9845 Mt. Holly-Huntersville Road from Rural (R) to Special Purpose-Conditional District (SP-CD) in order to construct a 199ft tall cell tower. The property (PIN 017-38-108) is currently used as a single family residence. (Staff: Whitney Hodges)

ACTION RECOMMENDED: Consider decision

ATTACHMENTS: Staff report
The following attachments are available on the Town's website, <http://www.huntersville.org/Departments/Planning/CurrentProjectsMap/ProjectsList/tabid/137/ProjectType/View/typeID/88/Default.aspx>
Should you need a printed copy of any of this material, please contact the Planning Department.

- A—Application
- B—July 18, 2011 Joint Public Hearing Meeting Minutes
- C—August 1, 2011 Joint Public Hearing Meeting Minutes
- D—August 23, 2011 Planning Board Meeting Minutes
- E—September 6, 2011 Town Board Meeting Minutes
- F—Charlotte Mecklenburg Planning Commission comments
- G—Neighborhood Meeting Minutes
- H—Support letters for Ordinance compliance

ENCLOSURES: The following enclosures are available on the Town's website, <http://www.huntersville.org/Departments/Planning/CurrentProjectsMap/ProjectsList/tabid/137/ProjectType/View/typeID/88/Default.aspx>
Should you need a printed copy of any of this material, please contact the Planning Department.

- 1—Site Plan (Site Plan sheet only—Full set is available electronically on the case website. Planning staff can supply an additional hard copy upon request. No changes were made to the hard copy supplied for July 18, 2011 Public Hearing.)
- 2—Coverage maps presented at the August 1, 2011 Meeting
- 3—Communication Tower Locations
- 4—Photo Simulation of the two types of towers—View from Mt. Holly Huntersville Road

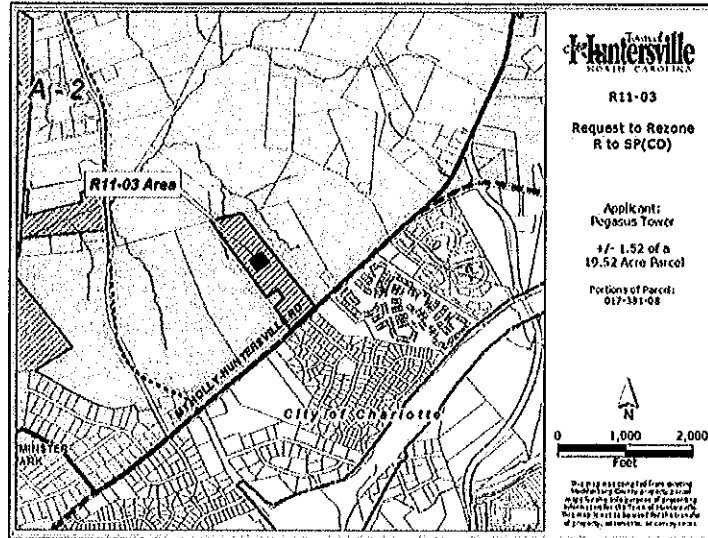
FINANCIAL IMPLICATIONS: N/A

Rezoning Petition #R11-03 Reames Cell Tower Rural (R) to Special Purpose-Conditional District (SP-CD) Rezoning

EXPLANATION OF THE REQUEST

Petition #R11-03 is a request by Pegasus Tower, LLC to rezone approximately 1.52 acres of a 19.52 acre parcel located at 9845 Mt. Holly-Huntersville Road from Rural (R) to Special Purpose-Conditional District (SP-CD) in order to construct a 199 ft tall commercial communication tower (Attachment A).

LOCATION



CHRONOLOGY OF PETITION

May 2, 2011	Public Hearing opened and continued at the request of the applicant to provide required information.
July 18, 2011	Public Hearing opened and continued to August 1, 2011 at the request of the applicant (Attachment B).
August 1, 2011	Public Hearing was conducted and closed (Attachment C).
August 23, 2011	Planning Board meeting conducted (Attachment D).
September 6, 2011	Case deferred at final action while a text amendment TA 11-11 is processed (Attachment E).
January 3, 2012	Case deferred to coincide with the decision of TA 11-11.

SITE PLAN DESCRIPTION

1. Parcel ID Number: portion of 017-38-108
2. Property Owner: Thad C. Reames Jr.
3. Current Land Use: Single family residence and agricultural use
4. Proposed Land Use: Addition of a 199 foot tall cell tower (The tower is 195 ft with a 4 ft lightning rod). Residential and agricultural use will remain on the parcel.
5. Adjoining Zoning & Land Use:
 - a. **North:** Rural (R) – vacant;
 - b. **South:** City of Charlotte zoning– single-family residences and church;
 - c. **East:** Rural (R)– agricultural use;
 - d. **West:** Rural (R)– wholesale plant nursery.

6. Notifications were sent to adjacent property owners, one (1) sign was posted on the property and an ad was placed in the paper.
7. The request was sent to Charlotte-Mecklenburg Planning Commission for comment. The Commission is not opposed to the request (Attachment F).
8. A Neighborhood Meeting was held on March 24, 2011 (Attachment G).
9. No protest petitions have been filed for this application as of April 25, 2011.
10. The rezoning is located in the Mountain Island Lake—Critical Area 2 Overlay District (MIL-CA-2) which will restrict the developer to creating 12% impervious area. When the property is subdivided out into a 1.52 acre parcel, the allowed impervious area will be 7,945 square feet. The proposed development is 7,392 sq ft which equals 11% of impervious area.
11. SWIM buffers are not impacted by this action.
12. The petitioner will be adding an 80' vegetated buffer around the ground level equipment for the tower and driveway addition to comply with the buffer requirements per Article 7.5 for Special Purpose zoning districts.
13. Commercial communication towers must adhere to the provisions of Section 9.9 subsections 1-10. Support letters required for compliance are Attachment H.

TRANSPORTATION ISSUES

Transportation staff determined that a Traffic Impact Analysis is not required.

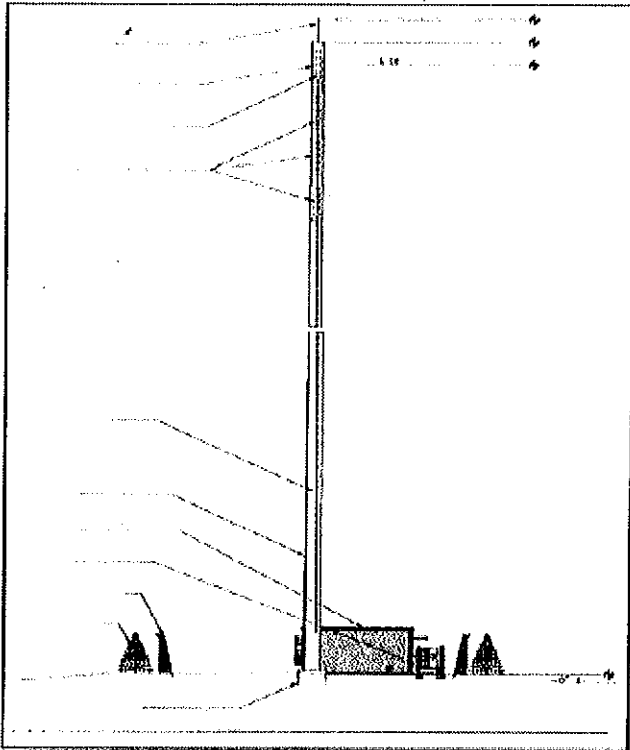
PUBLIC HEARING COMMENTS AND APPLICANT ADJUSTMENTS

At the public hearing held on July 18, 2011 several questions were raised about the existing and proposed coverage maps. The coverage maps did not appear to show the towers in the correct locations and raised further questions about the need for the tower. Additional questions were directed towards if a communication tower were approved, should it not be built to contain co-location opportunities for more than four carriers.

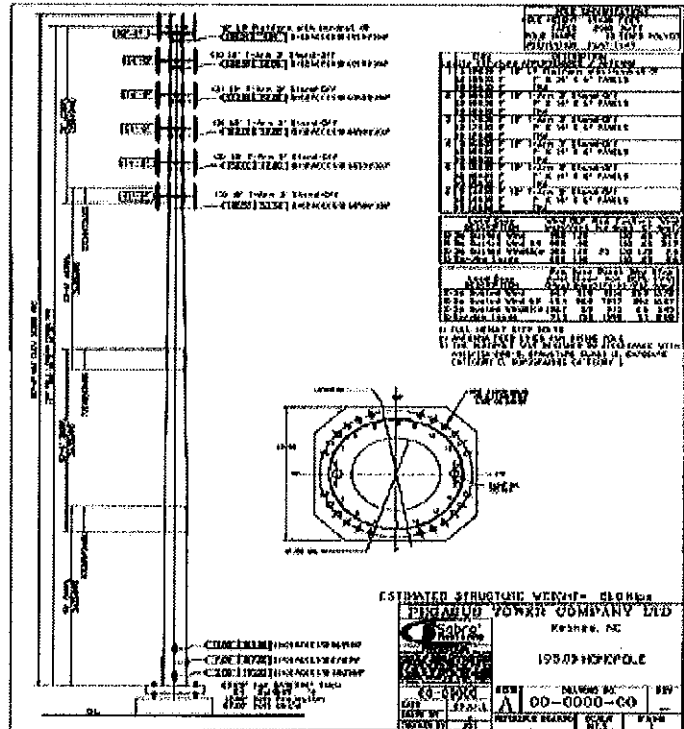
In response to questions raised at the public hearing, on July 18, 2011, the petitioner submitted additional coverage maps that show the correct tower location, coverage without the tower, coverage with a monopole tower with interior antennas and coverage with a monopole tower and exterior antennas. The coverage map provided showed that there will be approximately 23% more coverage with exterior antennas rather than interior antennas.

The public hearing was continued to August 1, 2011 so that the petitioner could refine the coverage maps and consider the possibility of using a different type of tower. At the public hearing, both the Town Board and Planning Board requested that petitioner provide coverage maps that compared the service areas that exists today; the service area with the tower and interior antennas; and service with the tower and exterior antennas. They also requested that the coverage maps be expanded to show a larger area and include Beatties Ford Road. The petitioner has refined the coverage maps to show the gaps in coverage (map with red); areas with adequate coverage (being able to use a wireless phone inside of a building) with a monopole with interior antennas ("stealth") and areas with adequate coverage with a monopole with exterior antennas. The maps show the Westminster neighborhood and portions of Long Creek (Enclosure 2).

In addition to modifying the coverage maps, the petitioner requested to add the option for a monopole communication tower with exterior antennas. The site plan and rezoning boundaries would not change, but the tower would have antennas attached to its exterior rather than be concealed in the interior of the monopole tower. This option would allow the petitioner to have two more antennas. On the next page is a side-by-side comparison of the two tower options the applicant is requesting to be considered.



MONOPOLE WITH INTERIOR ANTENNAS



MONOPOLE WITH EXTERIOR ANTENNAS

The Board requested that staff prepare a map showing all the approved communication tower locations and co-locations (Enclosure 3). In addition, the Board requested that the applicant provide a photo simulation of what the tower would look like from Mt. Holly-Huntersville Road (Enclosure 4).

At the Planning Board meeting the applicant requested that the Planning Board consider a text amendment that would allow commercial communication towers within the Rural Zoning district with additional restrictions. The petitioner stated that he would submit a text amendment to staff by the September deadline in order to start the text amendment process. He asked that the Planning Board defer decision on this rezoning request until the outcome of the text amendment is determined.

At the final action meeting on September 6, 2011, the Town Board granted Mr. Yates' request to consider deferral on the rezoning until a text amendment could be processed that would allow commercial communication towers in the Rural zoning district. This request is TA 11-11 and a public hearing was conducted on January 3, 2012 and final action is scheduled for February 6, 2012.

REZONING CRITERIA

Article 11 Section 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 – There are 2 relevant sections of the 2030 Huntersville Community Plan:

1. Policy E-1 states that the Town should support the preservation and enhancement of the natural environment, along with its scenic and cultural assets. Staff believes this policy would be better served with the antennas

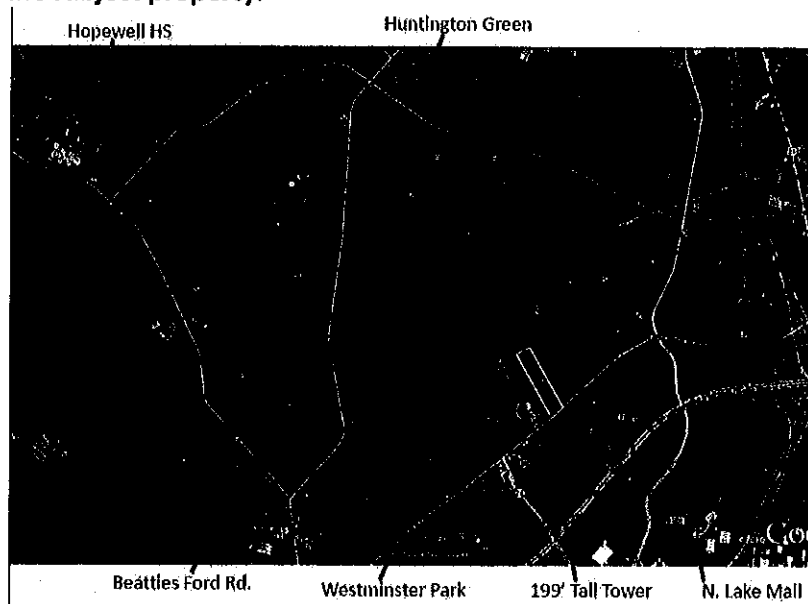
attached to a conforming structure which is a permitted use on the site without the rezoning (i.e. attached to a flag pole, windmill). If the Town Board determines a stand-alone tower of 199' in height is appropriate for the area, staff recommends that a monopole with interior antennas would be less visually obtrusive than a monopole with exterior antennas.

2. The Town should avoid locating new development in areas of significant environmental, scenic or cultural resources (Policy E-2). This site is located in Critical Area 2 of the Mountain Island Lake Watershed. Commercial communication towers are considered low intensity land uses and therefore the use is consistent with Policy E-2.

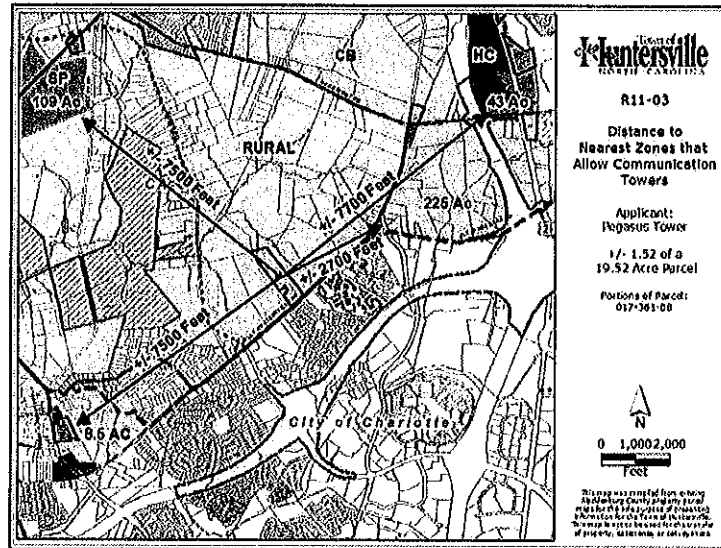
There are no other applicable plans related to this site.

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

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

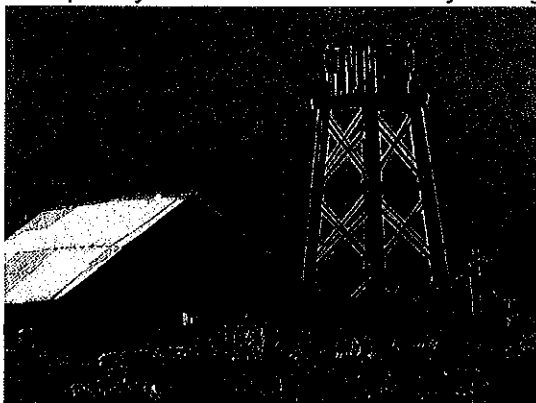


Staff Comment –The surrounding area within Huntersville’s jurisdiction is completely zoned Rural (R) and has established residential uses and agricultural uses. The proposed use would introduce a fairly small parcel of Special Purpose-Conditional District (SP-CD) into a residential area. Spot zoning occurs when a relatively small tract of land is zoned differently from the surrounding areas. The closest SP zoning districts are approximately 7, 500 ft located on Beatties Ford Road at West Huntersville Storage and the Piedmont Gas facility on McCoy Road. The closest Corporate Business (CB) zoning district, which also allows for commercial communication towers, is 2,700 ft. This is depicted on the map on the next page. Therefore, the proposal is not in keeping with the established development pattern.



Further, staff believes the character of the surrounding area would be better served with the antennas attached to a conforming structure which is a permitted use on the site without the rezoning (i.e. attached to a flag pole, water tower, windmill see below illustration). If the Town Board determines a stand-alone tower of 199' in height is appropriate for the area, staff recommends that a monopole with interior antennas would be less visually obtrusive than a monopole with exterior antennas.

Examples of antenna attached to conforming structures



- 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 – A cell tower qualifies as a “communication service” in the definition of Essential Public Services in Article 13 and thus is exempt from the Adequate Public Facilities Ordinance. Transportation staff determined that there was not a need for a Traffic Impact Analysis (TIA).

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

Staff Comment –The requested action will not adversely affect known archeological, environmental, historical or cultural resources.

STAFF RECOMMENDATION

Planning Staff does not support the rezoning request because it is not consistent with the overall character of the area.

- The request introduces a relatively small tract of SP zoning into a predominantly Rural zoning area and this could be considered spot zoning.
- Co-location is a permitted use in the Rural Zoning district. A co-location can be placed on a conforming structure (i.e. attached to a flag pole, water tower, windmill) and still serve Huntersville residents with wireless service without requiring a rezoning. If the Town Board determines a stand-alone tower of 199' in height is appropriate for the area, staff recommends that a monopole with interior antennas would be less visually obtrusive than a monopole with exterior antennas.

PLANNING BOARD RECOMMENDATION

The petitioner requested that the Board defer action on the rezoning while the petitioner prepares a text amendment to allow Commercial Communication Towers in the Rural Zoning District to which the Planning Board made the motion to recommend to the Town Board to defer action on the rezoning request while a text amendment is processed. The motion passed 9-1.

ATTACHMENTS/ENCLOSURES

No new information has been presented since the January 3, 2012 meeting. All attachments and enclosures were distributed to the Town Board at the January 3, 2012 meeting. These items can be found on the case website under *February 6, 2012 Town Board Package*, <http://www.huntersville.org/Departments/Planning/CurrentProjectsMap/ProjectsList/tabid/137/ProjectType/View/typeID/88/Default.aspx> Should you need a printed copy of any of this material, please contact the Planning Department.

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- 1—Site Plan (Site Plan sheet only—Full set is available electronically on the case website. Planning staff can supply an additional hard copy upon request. No changes were made to the hard copy supplied for July 18, 2011 Public Hearing.)
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STATEMENT OF CONSISTENCY

Per the North Carolina General Statutes § 160A-383 and Article 11.4.7 b-d of the Town of Huntersville Zoning Ordinance, rezoning actions must be accompanied by a *Statement of Consistency*. Two statements are provided below that need to be incorporated into the motion either to approve or deny the petitioner's request.

[Approve]

In considering the proposed amendment to the official zoning map to revise the rezoning for 1.52 acres located at 9845 Mt. Holly-Huntersville Rd, currently zoned Rural (R) to Special Purpose Conditional District (SP-CD) the Town Board of Commissioners finds that the rezoning revision is consistent with the Town of Huntersville Community Plan and other adopted plans and policies. We recommend amending Rezoning Petition R11-03, as presented. It is reasonable and in the public interest to amend the rezoning plan because..... (*Explain*)

OR

[Deny]

In considering the proposed amendment to the official map to revise the rezoning for 1.52 acres located at 9845 Mt. Holly-Huntersville Rd, currently zoned Rural (R) to Special Purpose Conditional District (SP-CD), the Town Board Commissioners finds that amending the rezoning plan is not consistent with the Town of Huntersville Community Plan and/or other adopted plans and policies). We recommend denial of Rezoning Petition R11-03. It is not reasonable and not in the public interest to rezone this property because..... (*Explain*)

ATTACHMENT NO. 3

**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:

Town Manager *PC*

Finance Officer

Town Attorney

To: The Honorable Mayor and Board of Commissioners
From: Bill Coxe, Transportation Planner
Subject: Prosperity Church Road Extension Alignment North of Eastfield Road

On January 17, 2012, the Town Board voted to reaffirm the existing MUMPO alignment for the extension of Prosperity Church Road north of Eastfield Road. Cambridge Properties, the developers of the Huntersville Village property, have crafted a new alignment that would alter the route within their property. There is a minor alteration (three feet plus or minus) as the route enters the Olmsted property and Olmsted representatives have indicated acceptance of this change. The exit point from the Olmsted property to the Davis property at the northern end of the alignment would be in the same location and same curvature as the current MUMPO alignment. Cambridge Properties requests that the Town Board endorse this new proposal.

Staff finds the proposed alignment acceptable. We believe it will yield a slightly better development layout on the Cambridge property than would the current MUMPO alignment.

ACTION RECOMMENDED: Board to consider endorsing the new route for Prosperity Church Road Extension as proposed by Cambridge Properties and as shown in red on the attached map.

ATTACHMENTS: memo and map

ENCLOSURES:

FINANCIAL IMPLICATIONS: n/a

date February 1, 2012
to Huntersville Town Board
from Bill Coxe, Transportation Planner
re Prosperity Church Road Realignment North of Eastfield Road

On January 17, 2012 the Town Board discussed a proposal by Cambridge Properties to shift the MUMPO approved alignment for the extension of Prosperity Church Road beginning just north of Eastfield Road and re-joining the MUMPO alignment on property owned by the Davis family. After discussion, the Board voted to re-affirm (i.e. not change) the MUMPO alignment. At the center of the discussion was a desire to not worsen the impact on the Davis property.

Cambridge Properties has directed their engineers to craft an alignment that allows change within the Cambridge Property but does not alter the MUMPO alignment's impact on the Davis property. They have submitted the alignment to MUMPO staff and Town Engineering Department and both find the alignment acceptable from a design standpoint. There is a minor (roughly 3 feet) shift from the MUMPO alignment to the new route as it crosses into the Olmsted property but there is no shift at the Davis' property line. The attached map shows the current MUMPO alignment and the revised proposed alignment.

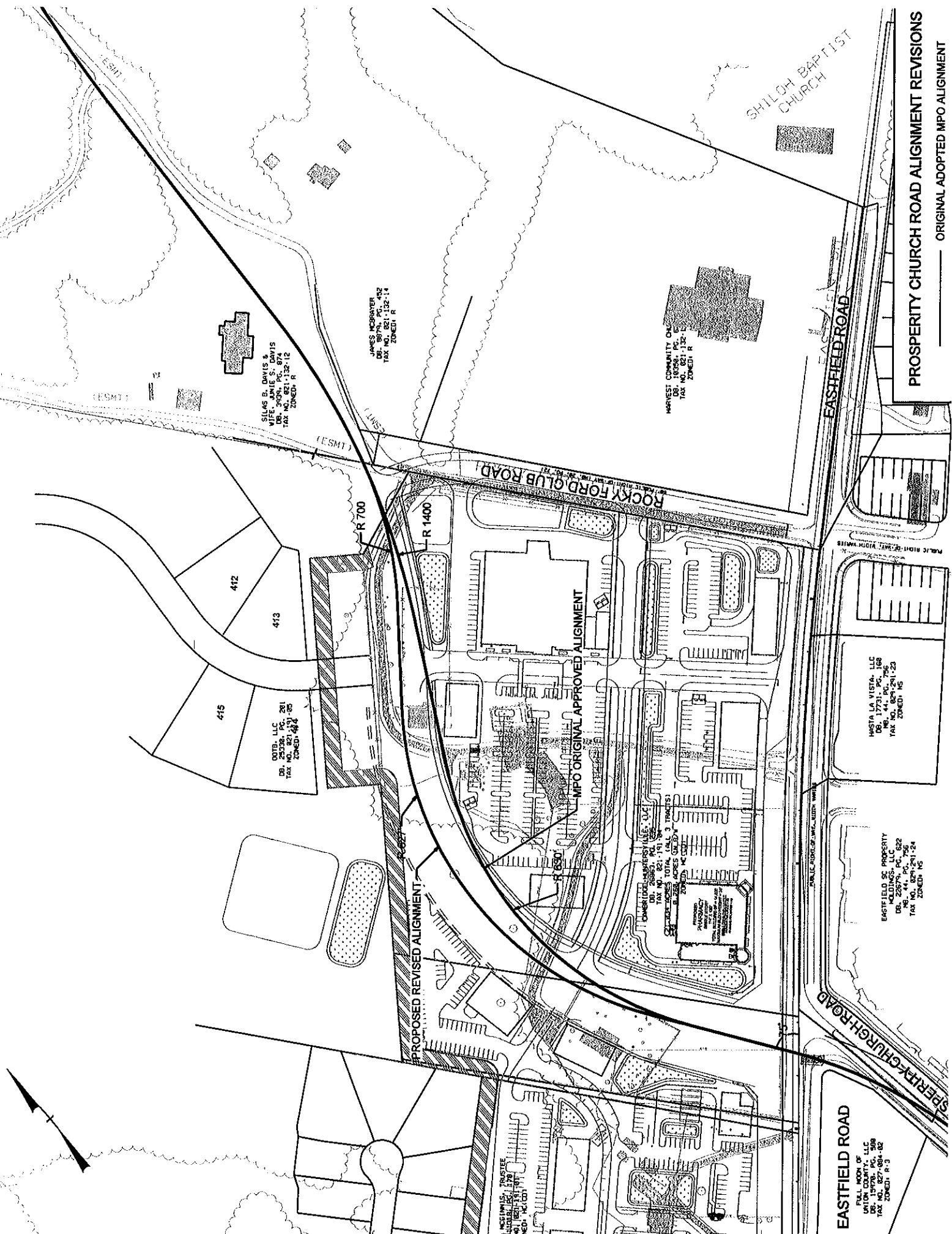
Cambridge Properties intends to move forward with development on the property with slight modifications to the existing approved (Crescent Resources, 2009) conditional zoning plan. Any changes to the plan are intended to be sufficiently minor in nature as to allow administrative approval of the change rather than requiring the extensive site plan amendment process. The latest version of the proposed changes has been reviewed by the Town and County engineers. Justin and I have focused on the internal roadway alignments and circulation/driveway/access arrangement issues. The shift in the alignment of Prosperity Church Road allows minor shifts in the internal roadway structure. We find that the proposed layout is better from a traffic circulation standpoint than the original Crescent plan.

Staff is comfortable supporting the proposed shift in the Prosperity Church Road Extension. Due to a specific clause in the MUMPO Memorandum of Understanding, the shift must be approved by the MUMPO.

Please note: I will be available at 5:30 prior to the Town Board meeting at Town Hall if you would like to discuss this issue.

attachment

Transportation Planning



SILAS B. DAVIS &
DAVE W. DAVIS
DB, 10391, PC, 5
TAX NO. 821-132-112
ZONED: R

JAMES MCBRAYER
DB, 10391, PC, 5
TAX NO. 821-132-114
ZONED: R

HARVEST COMMUNITY ON
DB, 10391, PC, 5
TAX NO. 821-132-115
ZONED: R

OUTR, LLC
DB, 10391, PC, 281
TAX NO. 821-132-112
ZONED: R

MPO ORIGINAL APPROVED ALIGNMENT

PROPOSED REVISED ALIGNMENT

PROSPERITY (LLC), LLC
DB, 10391, PC, 282
TAX NO. 821-132-113
ZONED: R

PROSPERITY (LLC), LLC
DB, 10391, PC, 283
TAX NO. 821-132-114
ZONED: R

HOSTIA LA VISTA, LLC
DB, 10391, PC, 284
TAX NO. 821-291-23
ZONED: NS

EASTFIELD SC PROPERTY
DB, 10391, PC, 285
TAX NO. 821-291-24
ZONED: NS

EASTFIELD ROAD
ELL MOON SC
UNION COUNTY, LLC
DB, 10391, PC, 588
TAX NO. 821-081-82
ZONED: P-3

SHILOH BAPTIST
CHURCH

PROSPERITY CHURCH ROAD ALIGNMENT REVISIONS
ORIGINAL ADOPTED MPO ALIGNMENT

ATTACHMENT NO. 4

**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:

Town Manager X

Finance Officer

Town Attorney

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

Town staff has been reviewing current debt and monitoring the favorable movement of the market for refinancing. We have also contacted some existing lenders to see if we might be offered a rate adjustment. Indications are that if rates are lowered, they will not approach the historic lows that can be obtained in the public debt market currently. We believe this is finally the best time to achieve the lowest rates possible on a refinancing. Our financial advisor and bond counsel also concur.

We will be having a short part of the work session for Monday night to take any questions on moving forward with a called public hearing later this month and Local Government Commission approval in March to package our existing debt and seek the best proposal for refinancing.

This is much like refinancing a house, however being able to package the refinancing of several that you own at once. The estimated amount to be refinanced is roughly \$20 million.

ACTION RECOMMENDED: Call for a public hearing for February 20, 2012 on refinancing of certain Town debt.

ATTACHMENTS: Bond Counsel approved resolution.

ENCLOSURES: None

FINANCIAL IMPLICATIONS: Significant. Details to be provided Monday night. Final package of financing is being put together this week. Likely a savings of over \$120,000 annually.

Extract of Minutes of a regular meeting of the Board of Commissioners of the Town of Huntersville, North Carolina, held at the Town Hall, 101 Huntersville-Concord Road, Huntersville, North Carolina 28078, at 6:30 p.m. on February 6, 2012.

* * *

A regular meeting of the Board of Commissioners (the "Board") of the Town of Huntersville, North Carolina (the "Town") was held at the Town Hall, 101 Huntersville-Concord Road, Huntersville, North Carolina 28078, at 6:30 p.m. on February 6, 2012 (the "Meeting"), after proper notice, and was called to order by Mayor Jill Swain, and upon the roll being called, the following members of the Board answered present:

The following members of the Board were absent: _____
Also present: _____

Commissioner _____ introduced the following resolution, a summary of which had been provided to each Commissioner, a copy of which was available with the Town Clerk of the Town and which was read by title:

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the Town of Huntersville, North Carolina (the "Town") is a validly existing municipal corporation of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "State");

WHEREAS, the Town has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment financing contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

WHEREAS, the Town has previously entered into an Installment Financing Contract dated as of November 13, 1995 (the "1995 Contract") with First Union National Bank in order to pay the capital costs of (1) constructing the Town Hall, (2) constructing a police department building and (3) constructing certain Town park and recreational facilities (collectively the "1995 Projects") and provided a security interest in the Town Hall and the police department building and the sites on which they are located through a Deed of Trust and Security Agreement dated as of November 13, 1995 (the "1995 Deed of Trust"), from the Town to the deed of trust trustee named therein; and

WHEREAS, the Town has previously entered into an Installment Financing Agreement dated as of August 30, 1999 (the "1999 Contract") with Bank of America, N.A. in order to pay the capital costs of (1) constructing and installing the Town Aquatic Center and (2) constructing and installing a sports complex containing two soccer fields, two baseball fields and one basketball court (the "1999 Projects") and provided a security interest in the Town Aquatic Center and North Mecklenburg Park and the sites on which they are located through Leasehold Deeds of Trust and Security Agreements dated as of August 30, 1999 (the "1999 Deed of Trust"), from the Town to the deed of trust trustee named therein; and

WHEREAS, the Town has previously entered into an Installment Financing Contract dated as of May 1, 2009 (the "*2009 Contract*") with Branch Banking and Trust Company in order to pay the capital costs of (1) the construction, furnishing and equipping of a building known as the Town Center (the "*Town Center*") to house the Discovery Place Kids! Museum (the "*Museum*") and new Town administrative offices, (2) the construction of a parking deck (the "*Parking Deck*") to serve the Town Center and surrounding development and (3) the acquisition of the real property on which the Town Center and the Parking Deck are located (collectively with the Town Center, the Museum and the Parking Deck, the "*2009 Projects*") and provided a security interest in the site on which the Town Center and Museum are located through a Deed of Trust and Security Agreement dated as of May 1, 2009 (the "*2009 Deed of Trust*"), from the Town to the deed of trust trustee named therein;

WHEREAS, the Board of Commissioners of the Town (the "*Board of Commissioners*") determines that it is in the best interest of the Town to enter into an Installment Financing Contract (the "*2012 Contract*") with the Huntersville Public Facilities Corporation (the "*Corporation*") in order to refinance all or a portion of its installment payments under the 1995 Contract, the 1999 Contract and the 2009 Contract (collectively, the "*Prior Contracts*") so as to reduce the installment payments associated with each of them;

WHEREAS, the Board has determined that, if the Town can reduce the installment payments under some or all of the Prior Contracts, the Town will enter into the 2012 Contract and a Deed of Trust and Security Agreement and Fixture Filing dated as of April 1, 2012 (the "*2012 Deed of Trust*"), from the Town to the deed of trust trustee named therein, related to as much of the Town's fee simple interest in the sites of the Town Center and the Town Hall and the improvements thereon as may be required to secure the refinancing;

WHEREAS, the Board reaffirms its findings as to each of the Prior Contracts and the projects financed thereby, all adopted in resolutions of the Board in 1995, 1999 and 2009 with respect to the 1995 Contract, the 1999 Contract and the 2009 Contract;

WHEREAS, the Board hereby determines that the 1995 Projects, the 1999 Projects and the 2009 Projects (collectively, the "*Prior Projects*") permit the Town to carry out public functions that it is authorized by law to perform; and that entering into the 2012 Contract and 2012 Deed of Trust is necessary and expedient for the Town by virtue of the findings presented herein;

WHEREAS, the Town hereby determines that the 2012 Contract would allow the Town to refinance the purchase the Prior Projects and take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the Town;

WHEREAS, the Town hereby determines that the estimated cost of refinancing the Prior Projects is an amount not to exceed \$20,000,000 and that such cost of refinancing the Prior Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the Town in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of refinancing the Prior Projects pursuant to the 2012 Contract is expected to exceed the cost of refinancing the Prior Projects pursuant to a bond financing for the same undertaking, the Town hereby determines that the cost of refinancing the Prior Projects pursuant to the 2012 Contract and 2012 Deed of Trust and the obligations of the Town thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond

financing, as required by the laws of the State, would result in the expenditure of significant funds; and (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the refinancing the Prior Projects and (3) insufficient revenues are produced by the Prior Projects so as to permit a revenue bond financing;

WHEREAS, the Town has determined and hereby determines that the estimated cost of refinancing the Prior Projects pursuant to the 2012 Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the Town does not anticipate a future property tax increase to pay installment payments falling due under the 2012 Contract;

WHEREAS, the sums to fall due under the 2012 Contract will be adequate but not excessive for its proposed purpose;

WHEREAS, Parker Poe Adams & Bernstein LLP, as special counsel ("*Special Counsel*"), will render an opinion to the effect that entering into the 2012 Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the Town in any action for its breach of the 2012 Contract, and the taxing power of the Town is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the 2012 Contract;

WHEREAS, the Town is not in default under any of its debt service obligations;

WHEREAS, the Town's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the Town has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

WHEREAS, past audit reports of the Town indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the Town has not been censured by the North Carolina Local Government Commission (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on the 2012 Contract after publication of a notice with respect to such public hearing must be held and approval of the LGC with respect to entering the 2012 Contract must be received; and

WHEREAS, the Town hereby determines that all findings, conclusions and determinations of the Town in this Resolution are subject to modification or affirmation after all interested parties have been afforded the opportunity to present their comments at a public hearing regarding the execution and delivery of the 2012 Contract and the Prior Projects to be refinanced thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA, AS FOLLOWS:

Section 1. *Application to LGC.* That the Finance Director or her designee is hereby directed to file with the LGC an application for its approval of either the 2012 Contract and all relevant

transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the Town and its financial condition as may be required by the LGC.

Section 2. **Special Counsel; Underwriter.** That the financing team of Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, as special counsel; Robert W. Baird & Co., Winston-Salem, North Carolina, as underwriter; and McGuireWoods LLP, Charlotte, North Carolina, as underwriter's counsel, is approved.

Section 3. **Public Hearing.** That a public hearing (the "*Public Hearing*") shall be conducted by the Board of Commissioners on February 20, 2012 at 6:30 p.m. at the Town Hall, 101 Huntersville-Concord Road, Huntersville, North Carolina 28078, concerning the 2012 Contract, the proposed refinancing of the Prior Projects and any other transactions contemplated therein and associated therewith.

Section 4. **Notice of Public Hearing.** That the Clerk to the Board is hereby directed to cause a notice of the Public Hearing, in the form attached hereto as Exhibit A, to be published once in a qualified newspaper of general circulation within the Town no fewer than 10 days prior to the Public Hearing.

Section 5. **Repealer.** That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 6. **Effective Date.** That this Resolution is effective on the date of its adoption.

On motion of Commissioner _____, seconded by Commissioner _____, the foregoing resolution entitled "**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO**" was duly adopted by the following vote:

AYES:

NAYS:

STATE OF NORTH CAROLINA)
)
TOWN OF HUNTERSVILLE) ss:

I, JANET PIERSON, Town Clerk of the Town of Huntersville, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO**” adopted by the Board of Commissioners of the Town of Huntersville, North Carolina at a meeting held on the 6th day of February, 2012.

WITNESS my hand and the corporate seal of the Town of Huntersville, North Carolina, this the ____ day of February, 2012.

JANET PIERSON
Town Clerk
Town of Huntersville, North Carolina

EXHIBIT A
NOTICE OF PUBLIC HEARING

At its February 6, 2012 meeting, the Board of Commissioners (the "*Board of Commissioners*") of the Town of Huntersville, North Carolina (the "*Town*") adopted a resolution which:

1. Authorized the Town to proceed to pay the costs of refinancing the Town's installment payments under:

(a) an Installment Financing Contract dated as of November 13, 1995 (the "*1995 Contract*") with First Union National Bank entered into in order to pay the capital costs of (1) constructing the Town Hall, (2) constructing a police department building and (3) constructing certain Town park and recreational facilities (collectively the "*1995 Projects*");

(b) an Installment Financing Agreement dated as of August 30, 1999 (the "*1995 Contract*") with Bank of America, N.A. entered into in order to pay the capital costs of (1) constructing and installing the Town Aquatic Center and (2) constructing and installing a sports complex containing two soccer fields, two baseball fields and one basketball court (the "*1999 Projects*"); and

(b) an Installment Financing Contract dated as of May 1, 2009 (the "*2009 Contract*") with Branch Banking and Trust Company entered into in order to pay the capital costs of (1) the construction, furnishing and equipping of a building known as the Town Center (the "*Town Center*") to house the Discovery Place Kids! Museum (the "*Museum*") and new Town administrative offices, (2) the construction of a parking deck (the "*Parking Deck*") to serve the Town Center and surrounding development and (3) the acquisition of the real property on which the Town Center and the Parking Deck are located (collectively with the Town Center, the Museum and the Parking Deck, the "*2009 Projects*")

pursuant to an installment financing contract (the "*2012 Contract*"), in a principal amount not to exceed \$20,000,000 under which the Town will make certain installment payments; and

2. Authorized the Town to proceed to provide, in connection with the 2012 Contract, as grantor, a Deed of Trust, Security Agreement and Fixture Filing (the "*2012 Deed of Trust*") to create a lien and security interest on the sites of the Town Hall financed under the 1995 Contract and the Town Center financed under the 2009 Contract (the "*Sites*") and any improvements thereon (together with the Sites, the "*Premises*") as may be required for the benefit of the entity, or its assigns, providing the funds to the Town under the 2012 Contract.

The Town Hall is located at 101 Huntersville-Concord Road, Huntersville, North Carolina 28078 and the Town Center is located at 105 Gilead Road, Huntersville, North Carolina 28078. The Premises will be mortgaged under the 2012 Deed of Trust. On payment by the Town of all installment payments due under the 2012 Contract, any lien created by the 2012 Deed of Trust will terminate and the Town's title to the Premises will be unencumbered.

NOTICE IS HEREBY GIVEN, pursuant to Section 160A-20 of the General Statutes of North Carolina, that on February 20, 2012 at 6:30 p.m. in the Town Hall, 101 Huntersville-Concord Road,

Huntersville, North Carolina 28078, a public hearing will be conducted concerning the 2012 Contract, the proposed refinancing of the 1995 Projects, the 1999 Projects and the 2009 Projects and any other transactions contemplated therein and associated therewith. All interested parties are invited to present comments at the public hearing regarding the execution and delivery of the 2012 Contract and the 1995 Projects, the 1999 Projects and the 2009 Projects to be refinanced thereby.

/s/ JANET PIERSON

Clerk to the Board of Commissioners
Town of Huntersville, North Carolina

Published: February ____, 2012

ATTACHMENT NO. 5


**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED BY:

Town Manager:

Finance Officer:

Town Attorney:

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

Appropriate funds received in the amount of \$9,768.94 from Lake Norman Charter School (per agreement for security services) for the months of August, September and October, 2011. Funds will be appropriated to the Police Department's budget for overtime, benefits and vehicle cost.

ACTION RECOMMENDED: Approve Budget Amendment

ATTACHMENTS: None

ENCLOSURES: None

FINANCIAL IMPLICATIONS: Additional revenue in the amount of \$9,768.94.

ATTACHMENT NO. 6

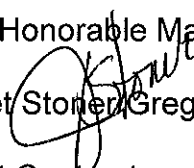
**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:

Town Manager X

Finance Officer

Town Attorney

To: The Honorable Mayor and Board of Commissioners
From: Janet Stoner  Greg Ferguson
Subject: Audit Contract

Approve audit contract with Martin Starnes & Associates, CPAs, P.A.

ACTION RECOMMENDED: Approve contract

ATTACHMENTS: Copy of contract

ENCLOSURES: None

FINANCIAL IMPLICATIONS: Funds in the amount of \$28,500 will be placed in the FY 2012-13 Budget

CONTRACT TO AUDIT ACCOUNTS
of Town of Huntersville, NC
Governmental Unit

On this 12th day of January, 2012, Martin Starnes & Associates, CPAs, P.A.

Auditor

730 13th Avenue Drive SE, Hickory, NC 28602

Mailing Address

_____ , hereinafter referred to as

the Auditor, and Town Council of Town of Huntersville, hereinafter referred
Governing Board Governmental Unit

to as the Governmental Unit, agree as follows:

1. The Auditor shall audit all statements and disclosures required by generally accepted accounting principles and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit for the period beginning July 1, 2011, and ending June 30, 2012. The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion will be rendered in relation to (as applicable) the governmental activities, the business-type activities, the aggregate discretely presented component units, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with generally accepted auditing standards. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB Circular A-133 and the State Single Audit Implementation Act, the auditor shall perform a Single Audit. This audit and all associated workpapers may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the LGC. If the audit and/or workpapers are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners.
3. This contract contemplates an unqualified opinion being rendered. If financial statements are not prepared in accordance with generally accepted accounting principles (GAAP), or the statements fail to include all disclosures required by GAAP, please provide an explanation for that departure from GAAP in an attachment.
4. This contract contemplates an unqualified opinion being rendered. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract
5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, July 2007 revisions, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of their most recent peer review report regardless of the date of the prior peer review report to the Governmental Unit and the Secretary of the Local Government Commission prior to the execution of the audit contract. (See Item 21) If the audit firm received a peer review rating other than pass, the auditor shall not contract with any Local Government Units without first contacting the Secretary of the Local Government Commission for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards*, the Auditor shall provide an explanation as to why in an attachment.
6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to the SLGFD within four months of fiscal year end: October 31, 2012. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay must be submitted to the Secretary of the Local Government Commission for approval.
7. It is agreed that generally accepted auditing standards include a review of the Governmental Unit's systems of internal control and accounting as the systems relate to accountability of funds, adherence to budget requirements, and adherence to law requirements. In addition, the Auditor will make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his findings, together with his recommendations for improvement. That written report must include all matters defined as "significant deficiencies and material weaknesses" in AU 325 of the *AICPA Professional Standards*. The Auditor shall file a copy of that report with the Secretary of the Local Government Commission.
8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the Local Government Commission. This includes annual or special audits, agreed upon procedures related to Internal Control, bookkeeping or other assistance necessary to prepare the Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Invoices for services rendered under these contracts

shall not be paid by the Governmental Unit until the invoice has been approved by the Secretary of the Local Government Commission. (This also includes any progress billings.) [G.S. 159-34 and 115C-447] The process for invoice approval has changed. All invoices for Audit work must be submitted by email in PDF format to the Secretary of the Local Government Commission for approval. The invoices must be emailed to: lgc.invoice@nctreasurer.com Email Subject line should read "unit name – invoice." The PDF invoice marked approved with approval date will be returned by email to the Auditor for them to present to the Local Government Unit for payment. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. In consideration of the satisfactory performance of the provisions of this agreement, the Governmental Unit shall pay to the Auditor, upon approval by the Secretary of the Local Government Commission, the following fee, which includes any cost the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (Federal and State grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts:

Year-end bookkeeping assistance – [For audits subject to Government Auditing Standards, this is limited to bookkeeping services permitted by revised Independence Standards] Standard hourly rates ranging from \$75-\$250 per hour

Audit \$21,800

Preparation of the annual financial statements \$6,700

10. The auditor working with a local governmental unit that has outstanding revenue bonds will include in the notes to the audited financial statements, whether or not required by the revenue bond documents, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the auditor should be aware that any other bond compliance statements or additional reports required in the authorizing bond documents need to be submitted to the Local Government Commission simultaneously with the local government's audited financial statements unless otherwise specified in the bond documents.
11. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include but not be limited to the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the governmental unit and all of its component units prepared in accordance with generally accepted accounting principles, (c) supplementary information requested by the client or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board as soon as practical after the close of the accounting period.
12. If the audit firm is required by the NC CPA Board or the Secretary of the Local Government Commission to have a pre-issuance review of their audit work, there must be a statement added to the engagement letter specifying the pre-issuance review including a statement that the Unit of Government will not be billed for the pre-issuance review. The pre-issuance review must be performed **prior** to the completed Audit being submitted to the Local Government Commission. The pre-issuance report must accompany the audit report upon submission to the Local Government Commission.
13. The Auditor shall electronically submit the report of audit to the Local Government Commission when (or prior to) submitting the invoice for services rendered. The report of audit, as filed with the Secretary of the Local Government Commission, becomes a matter of public record for inspection and review in the offices of the Secretary by any interested parties. Any subsequent revisions to these reports must be sent to the Secretary of the Local Government Commission. These audited financial statements are used in the preparation of Official Statements for debt offerings (the auditors' opinion is not included), by municipal bond rating services, to fulfill secondary market disclosure requirements of the Securities and Exchange Commission, and other lawful purposes of the government, without subsequent consent of the auditor. If it is determined by the Local Government Commission that corrections need to be made to the unit's financial statements they should be provided within three days of notification unless, another time frame is agreed to by the Local Government Commission.

The Local Government Commission's process for submitting audit reports is subject to change. Auditors should use the submission process in effect at the time of submission.

In addition, if the North Carolina Office of the State Auditor designates certain programs to be audited as major programs, a turnaround document and a representation letter addressed to the State Auditor shall be submitted to the Local Government Commission.

14. The auditor can be reached for matters concerning this contract at the following email address: phodges@martinstarnes.com

The finance officer or other responsible employee/official can be reached for matters concerning this contract at the following email address: jstoner@huntersville.org

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the Local Government Commission, this agreement

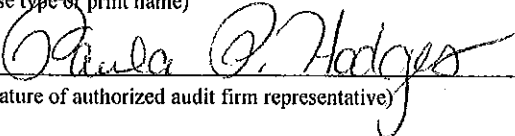
may be varied or changed to include the increased time and/or compensation as may be agreed upon by the Governing Board and the Auditor.

- 16. If an approved contract needs to be varied or changed for any reason, the change must be made in writing, signed and dated by all parties and pre-audited if the change includes a change in audit fee. This document and a written explanation of the change must be submitted by email in PDF format to the Secretary of the Local Government Commission for approval. Email address is lgc.contract@nctreasurer.com No change shall be effective unless approved by the Secretary of the Local Government Commission, the Governing Board, and the Auditor.
- 17. Whenever the Auditor uses an engagement letter with the client, Item 18 is to be completed by referencing the engagement letter and attaching a copy of the engagement letter to the contract to incorporate the engagement letter into the contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract will control. Engagement letter terms are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 23 of this contract. Engagement letters containing indemnification clauses will not be approved by the Local Government Commission.
- 18. Special provisions should be limited. Please list any special provisions in an attachment.
- 19. A separate contract should not be made for each division to be audited or report to be submitted. A separate contract must be executed for each component unit which is a local government and for which a separate audit report is issued.
- 20. The contract must be executed, pre-audited, physically signed by all parties and submitted by email in PDF format including unit and auditor signatures to the Secretary of the Local Government Commission. The email address is lgc.contract@nctreasurer.com Electronic signatures are not accepted at this time.
- 21. The contract is not valid until it is approved by the Local Government Commission. The staff of the Local Government Commission shall notify the unit and auditor of contract approval by email. The audit should not be started before the contract is approved.
- 22. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the Local Government Commission.
- 23. All of the above paragraphs are understood and shall apply to this agreement, except the following numbered paragraphs shall be deleted: (See Item 17.)

Audit Firm Signature:

Firm Martin Starnes & Associates, CPAs, P.A.

By Paula P. Hodges, Partner
(Please type or print name)


(Signature of authorized audit firm representative)

Email Address: phodges@martinstarnes.com

Date January 12, 2012

Unit Signatures:

By Jill Swain, Mayor
(Please type or print name and title)

(Signature of Mayor/Chairperson of governing board)

Date _____

Email Address _____

Date Governing Body Approved Audit Contract _____

Unit Signatures (continued):

By N/A
(Chair of Audit Committee- please type or print name)

(Signature of Audit Committee Chairperson)

Date N/A
(If unit has no audit committee, this section should be marked "N/A.")

Email address N/A

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act. Additionally, the following date is the date this audit contract was approved by the governing body.

Janet H. Stoner, Finance Director
Governmental Unit Finance Officer (Please type or print name)

(Signature)

Date _____

(Preaudit Certificate must be dated.)

Email address jstoner@huntersville.org

BOYCE, FURR & COMPANY, LLP

CERTIFIED PUBLIC ACCOUNTANTS

SAMUEL A. BOYCE, PARTNER
BOBBIE W. FURR, PARTNER

SANDY P. NEWELL, CPA
JO ELLEN B. LOY, CPA
DAVID E. BOYCE, CPA
PATRICIA T. WAGNER, CPA
CHERYL W. GAZALEH, CPA

May 5, 2009

Martin Starnes & Associates, CPAs, PA and the
Peer Review Committee, North Carolina Association
of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Martin Starnes & Associates, CPAs, PA (the firm) in effect for the year ended December 31, 2008. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under the *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Martin Starnes & Associates, CPAs, PA in effect for the year ended December 31, 2008, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Martin Starnes & Associates, CPAs, PA has received a peer review rating of *pass*.

Boyce, Furr & Company, LLP
BOYCE, FURR & COMPANY, LLP

ATTACHMENT NO. 7

**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:

Town Manager X

Finance Officer _____

Town Attorney _____

To: The Honorable Mayor and Board of Commissioners

From: Whitney Hodges, Senior Planner

Subject: Rezoning Petition # R 12-01 – Rezone 12031 and 12101 Old Statesville Road from General Residential (GR) to Neighborhood Residential—Conditional District (NR-CD)

Request to call a public hearing for Tuesday, March 5, 2012 at 6:30 PM, Huntersville Town Hall. Petition # R12-01 is a request by Bowman Development Group to rezone approximately 1.76 acres from General Residential to Neighborhood Residential—Conditional District (NR-CD) located at 12031 and 12101 Old Statesville Road (PIN# 017-37-101; 017-37-102) in order to construct a triplex with an attached garage. (*Staff: Whitney Hodges*)

ACTION RECOMMENDED: Call Public Hearing for March 5, 2012

ATTACHMENTS: N/A

ENCLOSURES: N/A

FINANCIAL IMPLICATIONS: N/A

**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:
Town Manager <u>X</u>
Finance Officer _____
Town Attorney _____

To: The Honorable Mayor and Board of Commissioners

From: Whitney Hodges, Senior Planner

Subject: Text Amendment Petition # TA 12-02 – Add Automotive Country Club to the Permitted Uses with Conditions in the Corporate Business (CB) Zoning District.

Request to call a public hearing for Tuesday, March 5, 2012 at 6:30 PM, Huntersville Town Hall. Petition # TA 12-02 is a request by Stuart Mullen to amend Articles 3.2.9 (a) and Article 12 and add 9.57 in order to permit with conditions Automotive Country Clubs in the Corporate Business (CB) zoning district. (*Staff: Whitney Hodges*)

ACTION RECOMMENDED: Call Public Hearing for March 5, 2012

ATTACHMENTS: N/A

ENCLOSURES: N/A

FINANCIAL IMPLICATIONS: N/A

**Town of Huntersville
REQUEST FOR BOARD ACTION
February 6, 2012**

REVIEWED:

Town Manager X

Finance Officer

Town Attorney

To: The Honorable Mayor and Board of Commissioners

From: David Peete, Principal Planner

Subject: Text Amendment Petition # TA 12-03 – Extend required maintenance guarantee time period from 1 years to 2 years (with conditions) for street improvements.

Request to call a public hearing for Monday, March 5, 2012 at 6:30 PM, Huntersville Town Hall. Petition # TA 12-03 is a request by Town of Huntersville to amend Article 8.4.4 to extend the required maintenance guarantee time period from 1 year to 2 years (with conditions) for street improvements. (*Staff: David Peete*)

ACTION RECOMMENDED: Call Public Hearing for March 5, 2012

ATTACHMENTS: N/A

ENCLOSURES: N/A

FINANCIAL IMPLICATIONS: N/A