



**Planning Board  
Regular Meeting Minutes  
January 23, 2018 - 6:30 PM**

**Town Hall**

---

**A. Call to Order/Roll Call**

**B. Approval of Minutes**

1. Consider approval of Minutes

A Motion to Approve was made by Catherine Graffy and seconded by Jennifer Davis. The Motion Carried by a vote of 7 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Sailers, Swanick, Thomas

Absent: McClelland, Smith

**C. Public Comments**

**D. Action Agenda**

1. Petition #R17-09 is a request by McDonald's USA, LLC to amend their conditional rezoning at 16835 Statesville Road (Parcel ID #00504303) to Highway Commercial Conditional District (HC-CD). The purpose of the rezoning is to allow the expansion of the drive through area.

A Motion to Approve based on staff including all red lines and 2nd and 3rd submittals, outstanding HVAC and lights, and landscaping, and other site plan reviews and comments to be included as well as an additional sign for handicap traffic awareness and traffic calming strategy near the handicapped spaces. The plan is consistent with 2030 Community Plan, and it is reasonable and in the public interest to rezone because it will allow traffic to proceed through the site much faster, and will eliminate smog. was made by Jennifer Davis and seconded by Joe Sailers. The Motion Carried by a vote of 7 Ayes and 0 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Sailers, Swanick, Thomas

Absent: McClelland, Smith

Discussion: Bradley Priest, Senior Planner, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference, and gave an overview of the rezoning request for McDonald's as a follow up from the public hearing. The applicant would like to amend its conditional rezoning from 1995, and bring it up to the current code requirements, and expand the drive-thru to a two lane. Some parking spaces will be removed. Landscaping, signage, screening, sidewalk and pedestrian pathways are required by the new code, which the applicant has agreed, including storm water facilities. This site is similar to the Chik-fil-A (adjoining), and it has worked well. Staff recommends approval, with a condition of the minor site plan elements to be taken care of. Since the public hearing there were a few changes made for the outstanding minor items, and some notes regarding

screening, landscaping, utility equipment remain. Staff informed the members that a 3<sup>rd</sup> submittal was reviewed, and most items had been taken care of with outstanding notes for HVAC, lighting being parallel to the ground, and other minor items.

The Board members (Thomas and Sailors) expressed concerns about the location of the handicapped parking spaces. Staff noted that the current plan locates the spaces to the front along Statesville Road, and showed the location of the door. Kristin Lang (101 Falls Park Drive, Greenville, SC) appeared on behalf of the applicant, and stated that ADA requires the accessible route connecting the parking to 60% of the public entrances and sidewalks, and the plan is in compliance. Thomas questioned if the handicap spaces were being reduced, and staff spoke to the Mecklenburg County standards, and Ms. Lang noted ADA requires 1 per 25 with the first one being van accessible. Sailors voiced his concern about the traffic routing and asked about moving the spaces somewhere else, and thought the traffic moving past the handicap spaces would be going too fast. Ms. Lang explained the grading and slope in the parking area, and noted the spaces would not work elsewhere. Sailors requested a speed bump to slow traffic, and asked if the entrance doors were big enough to accommodate handicapped patrons, to which Ms. Lang responded that all doors are standard size, and the doors in the back are not for public access.

Bankirer questioned the 20" mulch bed on the east side near the ADA spaces, and asked if it was planned to move the existing shrubbery in that area, and Lang noted the 5' sidewalk, and curbed island. Sailors commented about the handicap vans/vehicles backing out of the spaces, and staff noted the space dimensions and circulation was reviewed by transportation, and there were no comments and it was approved by Public Works. This is a one way access (10' wide). Staff can double check with Public Works to see it meets clearance and the requirements. Sailors reiterated his concerns about the location of the spaces. Graffy commented about the existing locations, and did not feel there would be or is an issue with cars going fast around the building. Sailors asked about moving the drive-thru lanes away from building. Ms. Lang explained the applicant does not typically do that for McDonald's lay-outs, and added the reason for the double lane is to process cars. When the buildings were original built 30% was using the drive-thru and now it is 70%. The double drive-thru goes to stacking on site, and not on Statesville Road. Sailors again expressed concerns about the ADA parking spaces, and Ms. Lang stated that ADA is difficult. All the doors have to be connected, and the spaces cannot be put at back of lot, or the widest spot. They have to be located closest to the building entrances. This is the best location and giving the best access to those users. Sailors suggested again about speed control to make drivers slow down. Bankirer asked if the applicant would consider another sign at the corner to advice drivers they are approaching handicap area. Ms. Lang thought that could be done, but does not want to block the sidewalk, and showed a possible location for additional signage near the new curb is being installed.

Bankirer asked about the crosswalk having a ramp, and Ms. Lang noted they do not need a ramp. The crosswalk goes straight out. Only flared sides if crossing sideways across a sidewalk, but otherwise it can be straight out.

Bankirer asked about the trash area in the northwest location of the site, and the parking spaces being used. Ms. Lang noted the relocation and rebuilding of the trash corral. Bankirer commented about the three (3) trees (Leyland Cypress), and Ms. Lang noted they are mature existing trees, which are shown on the landscaping sheets. Davis asked about if any aesthetic improvements were being made to the building, and Lang, responded, yes. Elevation sheets were provided.

Discussion after the Motion included Thomas and Davis noting their support of the Motion. The Chairman asked Ms. Lang if she agreed to the conditions in the Motion, to which she confirmed.

2. TA #18-02, a request by the Town of Huntersville Planning Department providing the Planning Department authority to approve subdivision sketch plans that are consistent with a conditional rezoning plan approved by the Huntersville Board of Commissioners.

A Motion to Approve based on the amendment being consistent with the 2030 Community Plan, and consistent with streamlining the rezoning process; however, wording that can be included for both minor and major changes should be incorporated into the ordinance as well as staff going back to the Subdivision Ordinance as a whole, and pulling out those areas that are applicable that need to be changed in the wording, whether it is a single word or multiple words to make it consistent with the overall rezoning process. was made by Joe Sailers and seconded by Susan Thomas. The Motion Failed by a vote of 0 Ayes and 0 Nays. Board Members voting

A Substitute Motion to Defer to give the Planning staff the ability to more definitively document the responsibility of the Planning staff, Planning Board, and the Town Board with regard to approving conditional rezoning sketch plans was made by Harold Bankirer and seconded by Stephen Swanick. The Motion Carried by a vote of 5 Ayes and 2 Nays. Board Members voting Ayes: Bankirer, Davis, Graffy, Miller, Swanick

Nays: Sailers, Thomas

Absent: McClelland, Smith

Discussion: Jack Simoneau, Planning Director, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B, and incorporated herein by reference, and gave an overview of the text amendment. The current conditional rezoning process was explained, and subdivision sketch plans, which can be processed simultaneously but coming after the rezoning and without a public hearing. The proposed is to streamline the process without changing the conditional rezoning process. Only if the conditional rezoning is approved, can staff approve the sketch plan, if it is the same or has minor changes to the conditional rezoning. The language is already in the Ordinance for minor change. Currently, sketch plans are quasi-judicial with no discussions outside of meetings and sworn testimony at the Town Board level. The problem is that a conditional rezoning looks exactly like a sketch plan, and the Town Attorney has concerns for the overlap. The example of Kinnamon Park was shown (both conditional rezoning and sketch). Staffs recommends approval of the proposed amendment. The Huntersville Ordinances Advisory Board (“HOAB”) recommended the request. Staff will only approve a subdivision sketch plan that mirrors, or has minor changes, to an already approved conditional rezoning.

Davis questioned minor changes on a sketch plan when the approval of the rezoning was with conditions. Simoneau noted that Planning Board recommendations on conditional rezoning plans will be addressed before the Town Board’s final action, if time allows. The comments will follow the rezoning plan. Sailers asked about the case just heard, and it was explained that McDonald’s is not a subdivision, because there were no public streets or multiple buildings on the plan. Highway Commercial plans are approved by staff (one building, one lot). Sailers expressed his concerns about future approvals by staff, and Miller commented on the two processes and proposed. Staff explained minor changes that staff approves currently. The Kinnamon example was referred to again for changes in a conditional rezoning. A corresponding sketch plan would be staff approved only when the plan is the

same as the rezoning, or with minor changes. If a major change is on the sketch plan, the plan will be processed through to the Planning Board and Town Board. There have been subdivision sketch plans come through with major changes to the rezoning, and those plans are sent through the public process. The Chairman noted his concern from the public hearing about equal treatment. He is not opposed to taking away burdens from the Board, or Town Board; however, he was not aware of any conflict in discussing rezoning and sketch plans. The members were briefed when accepting seats on Board. Secondly, the language does not take into account of responsibility elsewhere in the ordinance; i.e. the section in the Ordinance for the Planning Board says the Board is to review and make recommendations on subdivision sketch plans. There may be other points in the Ordinance that will need to be changed. The problems with Kinnamon Park were related to drainage, vegetation and tree planting along the access road. The question becomes, what is minor? One change as proposed by staff is landscaping, and landscaping as a whole is not minor. The height, type and density of trees has been discussed with conditions being made. There are direct and indirect impacts, that may affect a buffer and still be considered minor, and that should still come through the public process. Bankirer noted he is all for taking some of the responsibility away from both parties, but was not supportive of the proposed unless very fine-tuned. The ordinance is designed to educate and inform the public to understand how to conduct business with the Town. As written, Bankirer will not support, and suggested that staff fine-tune the proposed amendment and bring back to the Planning Board. Simoneau responded that staff is ready to move forward, but will address each point. Simoneau further stated that discussions of a sketch plan outside of sworn testimony has never caused any problem, but we (the Town) has not yet been sued on this issue. In a lawsuit, if attorneys think there is a potential of discussions on a quasi-judicial case outside of sworn testimony that will be used. The Town attorney is being cautious. It is correct, there has not been a situation where there was discussion outside of sworn testimony, and staff is trying to avoid the problem. The Planning Board responsibilities in the ordinance for recommendations on sketch plans will still be true for those plans that do not call for rezoning. The language that could be added, is that "Planning Board approves sketch plans unless authorized by the Planning staff elsewhere in the ordinances". What is minor and major in terms of landscaping could be nailed down in rezoning plans, and staff would verify components in the sketch plans. Staff will use their professional judgment, as they have since 1996, and determine what is minor or major, and be conservative. Staff is willing to add language for clarity about actions of the Planning Board and Town Board. Bankirer made the following points; 1) the comment of avoiding a lawsuit is not a sound argument, 2) landscaping decisions on Kinnamon Park were conditions, and it is not appropriate for staff to use their professional judgement on a condition that was imposed by the Planning Board. Davis noted that it is weighing what is more important (staff decisions vs Planning Board), and there has not been conflicts with discussions and quasi-judicial.

Sailers and Davis asked about the HOAB process and if there were any comments. Commissioner Dan Boone (317 Southland Drive, Huntersville), also a member of the HOAB addressed the Board, and noted that at the September 2017 meeting this was looked at for ways of taking time out of the process for sketch plans for conditional rezoning plans. The Planning Board Chairman brought up good points that were not thought about.

Swanick commented on the recent Skybrook plans where the Planning Board recommended the CD rezoning but voted down sketch plan. Swanick expressed his concerns that under this process the Planning Board would not have that ability, and is hesitant to approve the proposed. He understood to streamline the process, but without the Planning Board losing oversight. Thomas asked staff about other potential benefits for the process. Staff responded that it would be a less cumbersome process, and removes the quasi-judicial

factor. In the past Staff has had authority to approve sketch plans (2000-2003), which was changed in 2003. Thomas asked if with the recovery of the economy if more projects would add to stress, and Simoneau responded that it would relieve it, because the sketch plan would not be in the public process and be streamline. Thomas asked if there was a better way to define minor shifts, instead of minor changes. Simoneau read from the ordinance for staff authority, specifically paragraphs 10 and 11, wherein staff already has authority. Section 12 can be expanded for more language, including duties of the Planning Board and Town Board. The Chairman suggested that it be considered when staff presents a rezoning alone. Bankirer is not opposed to assigning additional responsibilities to Planning staff, but thought the proposal has to be worded better and all the touch all points in the ordinance be addressed, and staff can come back with a comprehensive proposal. Sometimes, staff will present items and state they are not going to talk about certain issues in the rezoning plan, but talk about those issues in the sketch plan, and this should be considered in the proposed process and amendment. Swanick suggested that if the Board made conditions on a conditional rezoning that the Board should have oversight in the related sketch plan. Staff indicated that may be problematic. Davis asked how many sketch plans within the last two (2) years would the Board have not looked at if this were in place, and Simoneau showed a list of all the rezoning plans and sketch plans from 2014-2017. There were 14 sketch plans of the 32 conditional rezoning plans.

## **E. Other Business**

1. Presentation on the Clarke Creek Small Area Plan and offer recommendations for adjustments.

Jack Simoneau, Planning Director, presented the timeline for the Small Area Plan ("SAP"), and noted that the public hearing was continued by the Town Board until February 5, 2018. It was asked at that time for another opportunity to have the public input. This will be back on the agenda on February 27, 2018, and then to the Town Board on March 5, 2018. Another public meeting will be on Thursday, February 1, 2018 at Town Hall from 6:30 p.m. to 8:00 p.m.

Thomas commented on retaining the wildlife and asked if that could be confirmed in the SAP. Simoneau noted the conservation land in the SAP, and the developer agreed to a buffer (200'), and the SAP can note the buffer from Huntersville-Concord Road and any development and for additional buffer around the round-a-bout. Residents have expressed that they do not want to stop development but protect the area. Staff can provide more clarity on the type of buffers to protect the conservation areas. It was noted there are some residents that want to purchase adjoining land. Graffy questioned the location of the buffer between the road, development, and the conservation area, and staff clarified the developer's position on the buffer(s).

Sailers commented on the bridge to be built on the new thoroughfare, and staff noted it is not specified in the SAP. Sailers commented that the SAP is because of the development, and the development is contingent upon the road being built within the developer's property. Sailers wanted to tie the road and bridge to the SAP for future developers, if any. During the Charrette the developer stated they would be asking for help from the State to build the bridge, along with help from the Town. Simoneau confirmed the developer would be working with the State for funding, and if there is a recommendation for extending the road to and over and across that property it can be made by the Board. The Chairman commented that maybe the concern should be described in the SAP to support development. Graffy noted the developer stated they would be build the two-lane road that would service the development,

and would allow for right of way for the State to build the other two lanes, and discuss with the State about the bridge. Sailors commented that approving this SAP includes the development, to which staff noted that the SAP includes a node and consider rezoning an area from Rural to Transitional with a substantial portion of the thoroughfare built, but it is undefined that it will go the bridge. Swanick questioned if during the rezoning plan process if it was proper to than address the roads and bridges, and staff replied, yes, and it does help to clarify in a SAP what the hopes and intentions are so it can be said at the rezoning that it is consistent with an adopted plan. The Chairman noted that staff will include comments about the bridge being built, and make it clear to the reader of the SAP, regardless who builds or funds building the bridge.

Graffy asked what Planning staff would recommend for a SAP if there was not a proposal for development, and the thoroughfares. Simoneau noted the roads and/or thoroughfares that would be built, and noted Prosperity Church Road and Huntersville-Concord Road, which is a thoroughfare. The two lane road is a thoroughfare even when not built to the ultimate cross section, but the Town will expect the right of way to be dedicated.

Graffy noted the three (3) questions that the plan must answer; mixed use node, residential density and thoroughfare realignment. The Charrette looked more to the development and not the SAP and the questions. Staff explained the Charrette gave a sense of the node in the SAP. Staff is only simplifying the node in the SAP, and outside of that area concerning density (1.5 units per acre), open space, and the conservation area, etc. The question of "appropriate" was addressed and Mr. Simoneau felt that density, the node and location of the thoroughfare is appropriate. The thoroughfare will go through its process.

Bankirer thanked staff for the comments previously made that were taken into consideration in the draft SAP. Bankirer noted that Huntersville-Concord Road and Hiawassee Road were being left out of the SAP, and suggested they both be addressed. The Planning Board was encouraged to attend the public meetings and address any concerns at the public hearing on February 5, 2018 for the Town Board to consider. When this comes back to the Planning Board the Chairman's preference was to not have a two (2) hour meeting to discuss. If members have comments or concerns they can email them to Sushil Nepal, which the Planning Director agreed.

Sailors asked about the airport and if there would be any problems for future property owners. Simoneau noted the FAA clear zone, and said it could be better shown as a cone in that area. The Chairman commented that the Planning Director should consider comments and if and when the comments are included in a plan. Graffy noted the flood plan near the runway and houses would not be closer. The Chairman concluded the discussions.

## **F. Adjourn**

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

---

Chairman or Vice Chairman

---

Michelle V. Haines, Board Secretary