

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**April 1, 2019
6:30 p.m. – Huntersville Town Hall**

PRE-MEETING

The Huntersville Board of Commissioners held a pre-meeting at the Huntersville Town Hall at 4:30 p.m. on April 1, 2019.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Mark Gibbons, Brian Hines, Danny Phillips and Nick Walsh.

Budget Work Session – Contribution Requests. Chief Jim Dotoli from the Huntersville Fire Department reviewed the fire department’s request for fund for FY19-20. The three main requests are (1) Command staff position 7 days a week, 6:30 a.m. to 6:30 p.m.; (2) Land for Fire Station 5; and (3) Hourly rate increase for firefighters. *A more detailed request is attached hereto as Exhibit No. 1.*

Bill Russell, Hugh Torance House & Store, requested \$36,400 for major work that needs to be done. *Detailed request attached hereto as Exhibit No. 2.*

Donna Turner, Co-Chair of Ada Jenkins Board, requested \$20,000. *Detailed request attached hereto as Exhibit No. 3.*

Annmarie Reiley-Kay, Executive Director of Historic Latta Plantation, requested \$20,000. *Detailed request attached hereto as Exhibit No. 4.*

Closed Session – Property Acquisition. Commissioner Gibbons made a motion to go into closed session for property acquisition. Commissioner Hines seconded motion. Motion carried unanimously.

Upon return from closed session, there being no further business, the pre-meeting was adjourned.

**REGULAR MEETING
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall at 6:30 p.m. on April 1, 2019.

GOVERNING BODY MEMBERS PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Mark Gibbons, Brian Hines, Danny Phillips and Nick Walsh.

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a moment of silence.

Boy Scout Troop 323 led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS

Mayor Aneralla

- The Metropolitan Transit Commission met last week. Their budget will include additional buses for the North Mecklenburg area. The Hambright Road direct connect is supposed to be open east/westbound by the end of April.
- Next meeting of North Meck Alliance is April 11.
- A meeting will be held on April 9 at Hopewell High School on vaping and the opioid crisis.

Commissioner Bales

- Provided update on Visit Lake Norman events.
- Lake Norman Economic Development Corporation currently has 30 active projects, 13 of which are in Huntersville.
- Novant information night is April 9 at CPCC Merancas Campus.
- Lake Norman Chamber, Lake Norman EDC and Education Collaborative will host speed networking event at Hopewell High School on April 25.

Commissioner Boone

- Provided update on Lake Norman Chamber of Commerce events.
- The Huntersville Police Department won the Battle of the Badges blood drive and will receive a \$1,000 donation to the charity of their choice, which is Angels and Sparrows.

Commissioner Gibbons

- A meeting on the North-South Parkway will be held on April 11 at River Run Country Club.
- Charlotte Regional Transportation Planning Organization Retreat is May 30 and 31.
- Next meeting of the Mecklenburg Veterans Council is tomorrow.

Commissioner Hines

- Next meeting of the Huntersville Ordinances Advisory Board is Thursday. We will be discussing youth curfews and regulating the removal of trees. We formed a TIA subcommittee and they met last week.
- Encouraged Boy Scouts present to stay with it – it is highly recognized and respected in college.

Commissioner Phillips

- Next meeting of the Olde Huntersville Historic Society in April 3 at the Old Jail.

Commissioner Walsh

- Next meeting of the Greenway, Trail and Bikeway Commission is next Tuesday.
- Provided update on Parks & Recreation events.
- Public Arts Commission received a \$5,000 grant from ElectriCities. Their next meeting is April 10.
- Provided update on Huntersville Chamber of Commerce events.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Mayor Aneralla presented the Key to the City to Jack Tyrell with Boy Scout Troop 323 who received the BSA National Award of Honor for saving someone's life.

Representatives from Carolina Synchronized Swimming presented PowerPoint presentation highlighting the program. *PowerPoint attached hereto as Exhibit No. 5.*

Representatives from the Greater Charlotte Auto Dealers Association presented a \$10,000 check for the Huntersville Police Department Emergency Fund.

AGENDA CHANGES

Commissioner Boone made a motion to move Item 9.D (consider decision on Petition #R18-14) under Other Business up to Item 9.A.

Commissioner Gibbons seconded motion.

Motion carried unanimously.

Commissioner Gibbons made a motion to adopt the agenda as amended.

Commissioner Bales seconded motion.

Motion carried unanimously

PUBLIC HEARINGS

Petition TA19-03. Mayor Aneralla called to order public hearing on Petition #TA19-03, a request by the Huntersville Planning Department to amend Article 3.2.3 to modify the General Requirements section to be consistent with Article 11.5.5 Nonconforming Vacant Lots.

Sierra Saumenig, Planner I, reviewed the Staff Report. *Staff Report attached hereto as Exhibit No. 6.*

Currently Article 11 requires that the owner of two adjacent non-conforming vacant lots to combine the lots into a single lot to be more conforming. The GR zoning district requirements say that density shall be controlled by the most recently approved subdivision plat which creates conflict with the non-conforming vacant lots requirement in Article 11.

Staff is proposing to include that if lot size and width are less than 50 percent of the standards in the GR zoning district, then Article 11.5.5(b) shall apply, meaning subdivisions meeting this new standard with no minimum lot size or width on the approved subdivision plan would continue to combine adjoining lots owned by the same person/entity.

The Huntersville Ordinances Advisory Board heard this request on February 7 and recommended unanimous approval and the Planning Board is scheduled to hear this request on April 23.

Gary Kendig, 7445 O'Hara Street, addressed the Board in support of the text amendment. He was required to purchase two lots in Norman Park and combine them to build his home. He has neighbors that were required to do the same thing. The expectation was that Norman Park would continue with that process, but over the past two years 10 houses have been built on the street, where there should have only been five.

Greyson Rogers, 7437 O'Hara Street, addressed the Board in support of the text amendment for the same reasons Mr. Kendig mentioned.

Commissioner Gibbons said based on the two people that just spoke, what allowed their neighbors to do something that they weren't allowed to.

Ms. Saumenig said that I can't speak on, but the houses that they are speaking to every other lot was owned by an entity and then the other lots were owned by someone different, so it was not two adjacent lots that were owned by the same person, which is when you would combine.

Commissioner Hines said the old restrictive covenants state that they had to have two lots to have a buildable lot.

Mr. Simoneau said in Norman Park there is not a restrictive covenant. Biltmore Park is kind of exactly the same thing created in the 60's. They did have restrictive covenants that mandated combining two lots.

There being no further comments, the public hearing was closed.

Town Board Structure. Anthony Roberts, Town Manager, presented PowerPoint presentation outlining options for changes to the Town Board structure and reviewed the timeline for making any changes. *Refer to PowerPoint presentation attached hereto as Exhibit No. 7.*

Mayor Aneralla suggested the Board discuss this item at the April 12 Work Session.

The Board encouraged people to submit any comments they have to them prior to April 12.

Mayor Aneralla noted he disagrees with making any changes.

There being no further comments, the public hearing was closed.

OTHER BUSINESS

Petition R18-14. Petition #R18-14 is a request by EPCON Communities Carolinas to rezone 34.77-acres located at 14211 Eastfield Road, (Parcel #s 02112213, 02112214 & 02112215) from Rural to Neighborhood Residential - Conditional District.

Mike Davis, EPCON Communities, requested the decision be deferred to April 15 due to the presenter for EPCON unable to attend due to illness.

Commissioner Boone made a motion to defer decision on Petition #R18-14 to April 15.

Commissioner Walsh seconded motion.

Motion carried unanimously.

Petition #R18-02. Petition #R18-02 is a request by Birkdale Real Estate Investors, LLC to rezone 19.50-acres located at southeast quadrant of NC 73 & Birkdale Commons Parkway (Parcel #'s 009-141-36 and portion of 009-141-17) from Highway Commercial - Conditional District and General Residential – Conditional District to Highway Commercial - Conditional District.

Mayor Aneralla requested to be recused.

Commissioner Phillips requested to be recused since it may have some financial impact to him.

Commissioner Boone made a motion to recuse Mayor Aneralla and Commissioner Phillips.

Commissioner Hines seconded motion.

Motion carried unanimously.

David Peete, Principal Planner, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 8.*

Mr. Peete noted that substitute sheets to the plans distributed last week were left for Board members at the dais.

Mr. Peete reviewed changes since the public hearing was closed.

Satisfied items include:

Traffic Impact Analysis (TIA). The revised TIA submitted on March 15 is acceptable as a final version for the Town. Based on the TIA a southbound left-turn lane on Beatties Ford Road at Gilead Road with 175' of storage would be required to meet Article 14 of the Town Zoning Ordinance.

NCDOT feedback on the TIA.

- Access to the site to NC 73 at Lindholm limited to left/through/right-in and right-out only prior to the NCDOT NC 73 TIP project. Two options are provided for a protected stem length – 275' for a single right-out and 150' for dual rights out.
- Access to the site to NC 73 at Lindholm limited to right-in/right-out only with the NCDOT NC 73 TIP project. A 200' protected stem length for a dual right-out.
- Access to Birkdale Commons Parkway as full movement.

Prohibited use list added.

- Vehicle and boat service, rental, cleaning, mechanical repair and body repair
- Car Wash
- Gasoline Service/Convenience Store
- Drive-thru Windows for Restaurants

Driveway connection to adjacent commercial development has been added to site plan.

Greenway easement area defined and noted for future improvement options.

Elevation/architectural features note has been added to Rezoning Plan.

Landscaping to be added along parking garage to screen.

Items still to be addressed

- Provide block-break street stub from Public Street A to north property unless requested Ordinance modification is granted.

Commissioner Hines questioned if there had been any conversations about right-of-way required for the improvements at Beatties Ford Road and Gilead Road.

Trent Gustafson, Birkdale Real Estate Investors, LLC, stated there has been initial analysis that existing right-of-way would accommodate the left-turn lane.

Mr. Peete reviewed modifications that are being requested. All items are supported by staff, with the exception of the block length waiver and staff can support it if the Town sees the parking lot stub as acting like a connecting street.

Staff conditionally recommends approval subject to the following:

- Required Transportation Impact Analysis (TIA) improvements are provided and all outstanding redlines are addressed. TO BE COMPLETED
- Provide a building elevation/architectural features note. DONE
- Town Board approval of Zoning Ordinance modification to permit a longer block break. PENDING
- Provide a greenway easement area for the proposed alternate greenway alignment from the culvert to new path along proposed public street. DONE
- All outstanding redline comments must be addressed. TO BE COMPLETED

The Planning Board recommended approval by 8-1 vote. The motion stated that Petition #R18-02 was consistent with the 2030 Community Plan and the development will benefit the Town. They strongly recommended including the elevation note so that staff would know how to review providing the greenway connection easements because that connection across NC 73 was very important and then to make sure that there were additional landscape buffers between the greenway and the BMP and all of that can be provided in the subsequent plan.

Commissioner Walsh made a motion in considering proposed Rezoning R18-02, the Town Board approves the rezoning based on the rezoning being consistent with Goals H-1, H-3, H-9, T-5, T-6, T-7, ED-9, ED-16, CD-2, CD-4 and CD-5 of the 2030 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it will benefit the Town. Recommendations include adding the Elevation and Architectural Guidelines note staff is reviewing, providing a greenway connection easement from the culvert area to the new public street, providing a landscaped buffer between the greenway and BMP and address all outstanding redline comments.

Commissioner Gibbons seconded motion.

Commissioner Boone said in the Planning Department they have a CD-6 and then the Planning Board eliminated that from their approval and it was not in our motion.

Mr. Peete said CD-6 is the architecture note and that was not drafted and agreed upon at the Planning Board review. Their sentiment that was passed onto you was that needed to be completely drafted so that staff and the applicant were agreeable on it. That's why they didn't make it part of their motion, but they did want it to be done.

Commissioner Boone asked Commissioner Walsh if he would amend his motion to include T-7, CD-1 and CD-6.

Commissioner Walsh said I can.

Commissioner Gibbons said T-7 is already there.

Commissioner Walsh said so CD-1 and CD-6.

Commissioner Walsh said I amend the motion to include CD-1 and CD-6.

Commissioner Gibbons seconded amended motion.

Angela Beeker, Town Attorney, questioned if the motion includes the modification for block lengths.

Commissioner Walsh said the block length stays.

Commissioner Gibbons seconded.

Mayor Aneralla called for the vote.

Motion carried with five (5) yes votes (Commissioner Phillips was recused).

Petition #SUP19-02. Petition #SUP19-02 is a request by Birkdale Real Estate Investors, LLC for a special use permit to exceed the height in the Highway Commercial district, but not to exceed six stories. The property is located at Sam Furr Road and Birkdale Commons Parkway (Tax Parcel #s 009-141-36 and (portion of) 009-141-17).

Commissioner Bales said we now open the evidentiary hearing for SUP19-02, a request by Birkdale Real Estate Investors for the proposed conditional district rezoning plan located at Sam Furr Road and Birkdale Commons Parkway. The decision will be made by a simple majority vote of the Board. This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this Board must make its decision. These rules are different from other types of land use decisions like rezoning cases. The Board's discretion is limited. The Board must base its decision upon competent, relevant and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion. Participation is limited. This meeting is open

to the public. Everyone is welcome to watch. Parties withstanding have rights to participate fully. Parties may present evidence, call witnesses and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the Board. General witness testimony is limited to facts, not opinions. For certain topics this Board needs to hear opinion testimony from expert witnesses. These topics include projections about impacts on property and projections about impacts of increased traffic. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion. The witnesses must swear or affirm their testimony and at this time we will administer the oath for individuals who intend to provide witness testimony.

Commissioner Bales swore in David Peete, Brian Jenest and Trent Gustafson.

Commissioner Bales said the parties to this case have rights for any ex parte communication to be disclosed. Any ex parte communication is any communication about the case outside of the hearing that may include site visits as well as conversations with parties, staff or the general public. Do any Board members have any site visits to disclose.

No commissioners responded.

Commissioner Bales said does any Board member have any conversations or other communications to disclose.

Commissioner Walsh said I did go to the neighborhood meeting about a month and a half ago but that won't affect my decision.

Commissioner Hines said I have had conversations with the applicant, but not about this proceeding here and it wouldn't affect my decision anyway.

Commissioner Gibbons said I have spoken with the applicant and been shown the plan, but nothing in regard to the height of the hotel nor would any of that information change my opinion.

Commissioner Boone said I attended the neighborhood meeting and it will have no affect on my decision.

Angela Beeker, Town Attorney, said for the record, everyone has sat through the public hearing on the conditional rezoning and that's just for the record.

Commissioner Hines said should we invite Commissioner Phillips and the Mayor back in since this is after the approval of the plan.

Ms. Beeker said they actually should be invited back in and then recused again if they feel they need to be recused for this as well.

Commissioner Hines made a motion to invite Commissioner Phillips and Mayor Aneralla back.

Commissioner Boone seconded motion.

Motion carried with five (5) yes votes (Commissioner Phillips was recused).

Commissioner Bales said I would also like to disclose that I did participate in the pre-development discussion as well as the public hearing, but it would have no impact on my vote one way or the other.

Commissioner Walsh made a motion to recuse the Mayor and Commissioner Phillips.

Commissioner Boone seconded motion.

Motion carried unanimously.

Commissioner Bales said based on the disclosures that we've heard from the Board concerning partiality and ex parte communications, does any member of the Board or any party to this matter have an objection to the Board members participation in the hearing.

Commissioner Bales said seeing none, Mr. Peete, will you introduce this hearing.

David Peete, Principal Planner, said I will present the facts through the staff report, answer any questions you may have and then the applicants are here as well to represent their request. *Staff Report attached hereto as Exhibit No. 9.*

This is a special use permit request and it is empowered by Article 3.2.7(a) of the Zoning Ordinance. It states that if you would like to exceed the permitted height in the Highway Commercial zone for a hotel that is a permitted or an accessory use that you may do so not to exceed six stories only with the issuance of a special use permit.

The first condition that are all outlined in Article 9.45.2 of the Zoning Ordinance, Letter A, stipulates that if a hotel or motel is going to exceed the normal permitted height that you would need to have a separation from a residential zone of three times the height of the proposed structure. And so the proposal is for six stories or 92' and so the required height would be 276 and as proposed you can see that there are 299' from the Residential zoning district that currently exist for the larger Birkdale neighborhood.

The next letter B requirement is that all the site design requirements would be met. As this is a conditional district rezoning plan a lot of that specificity is not there yet, although we do have a fresh brand new adopted architectural note to go along with all of this. But you can see in the notes from the rezoning plan, the highlighted area specifically as well as in other parts of this, that they will comply with all applicable ordinance requirements as they go forward. So that would be satisfied as well. There would be no endangerment of public health, safety nor substantial reduction in the value of nearby properties. Staff is not aware of any endangerment to the public health, safety or any reduction of value. We would state that the property itself not from the zoning boundary line but from the closest residential home would be approximately 700' away. Furthermore, there is a golf course in between to buffer and then there are several linear stands of trees, existing vegetation, that would be in place as well, so there would be a lot of mitigating factors to what this project might hold.

Item D is that there would be no conflict with objectives of the most detailed plan for the area. There is not a small area plan for this particular property but there is a comprehensive plan and as you know

from just a few minutes ago there were a lot of references to support by the comprehensive plan for the larger rezoning.

Letter E is that vehicular access to this particular site would be from a major or minor thoroughfare. Both NC 73 and Birkdale Commons Parkway would qualify, so it has plenty of thoroughfare access.

The staff recommendation is that we recommend approval based on the request of 92' in height, that the maximum of 92' in height would be a minimum of 276' away but specifically 299' as shown, that they would comply with Rezoning Plan R18-02 as now adopted and that specifically the elevation architectural note would apply and that was incorporated in your previous action.

The hotel is currently over 700' from the residential lot line and then there's vegetation and the golf course in between. There is no understood conflict between any adopted plan and the project would be accessed from a new street that is accessed directly from thoroughfares.

The Planning Board at their March 26 meeting approved 8 to 1 Staff's recommendation and they added the additional requirement that the architectural requirement note would be hashed out and agreed upon by staff and the applicant and that has happened and you have adopted that.

Susan Irvin, said for the applicant. I would like to ask that the SUP PowerPoint be entered into the evidence. *PowerPoint attached hereto as Exhibit No. 10.*

Ms. Beeker said just to clarify she is here to make argument and present evidence but not to testify so she doesn't have to be sworn.

Ms. Irvin said we do have two witnesses here who are here to answer questions if need be. Brian Jenest with Cole Jenest and Stone and Trent Gustafson. I would like to ask Trent to come up and give just one comment. Other than that he will confirm the presentation by the staff.

Trent Gustafson said I'm a licensed commercial real estate broker in multiple states. I'm also a certified commercial investment manager. I agree with staff's findings. The additional two stories to the hotel will bring additional business to the golf course, the ability to put meeting room space as well locate the pool of the hotel within the fifth and sixth story of that hotel. We believe the hotel with these additional two stories will improve property values throughout the area and as David Peete has mentioned there's a natural buffer of over 700' between the existing single-family homeowners that are on the eighth fairway. Then you have a very mature tree line, the creek and then you also have the ninth fairway that creates this natural barrier between the existing single-family homes and the hotel. We certainly appreciate your support and request your approval obviously of this SUP.

Commissioner Gibbons made a motion in considering the Special Use Permit SUP19-02, Birkdale Golf Mixed-use, we the Town Board find that the request meets all required conditions and specifications, is reasonable and does not pose an injurious effect on adjoining properties and finds that the character of the neighborhood or the health, safety and general welfare of the community will be minimized. This decision is supported by the following findings.

- The hotel is going to be 92' tall and exceed six stories in height and will be more than 276' away from adjoining residential property.
- The site commits to compliance with all applicable ordinance provisions.

- The proposed use will not endanger the public health and safety nor substantially reduce the value of nearby property.
- The proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area.
- Vehicular access to the use will be provided by ways of a major or minor thoroughfare or a commercial street within a commercial or mixed-use project.

Commissioner Walsh seconded motion.

Commissioner Bales said I just wanted to clarify one thing before we do vote and I just want to be clear that I heard that with the adoption of six stories that there will be a swimming pool on the top floor of the hotel. Is that what I heard?

Mr. Gustafson said yes.

Commissioner Bales said okay, I just wanted to make sure I was understanding that. All those in favor.

Motion carried with five (5) yes votes (Commissioner Phillips was recused).

Commissioner Hines made a motion to invite back Commissioner Phillips and Mayor Aneralla.

Commissioner Gibbons seconded motion.

Motion carried unanimously.

Petition TA18-11. Petition #TA18-11 is a request by Bank of America, N.A. to amend Article 3.2.9(c) Corporate Business District, Permitted Accessory Uses to increase the amount of attached single-family and multi-family housing developments allowed in a Corporate Business development of 400 acres or more.

Meredith Nesbitt, Senior Planner, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 11.*

The applicants have amended the request to be the language that the Planning Board recommended that is included in the Staff Report.

Commissioner Boone made a motion in considering the proposed amendment TA18-11 to amend Article 3.2.9(c) of the Zoning Ordinance, the Town Board approves the number of attached single-family and/or multi-family housing developments to three. We find the amendment consistent with Policies H-3, CD-1 and CD-3 of the Huntersville 2030 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it provides the potential for jobs, provides support for a live and work environment within The Park, and the use of the available land for completion of The Park which supports Huntersville's reputation as a place to do business. The 8 percent remains in the language.

Commissioner Hines seconded motion.

Commissioner Walsh noted he is not going to support the amendment. It takes valuable commercial acreage and moves it to residential. The apartment complex adjacent to this property can by right build additional units on there. More residential units in The Park will increase traffic and impact the schools.

Commissioner Gibbons noted that whether or not this is approved, it's not taking away from commercial. The applicant is still allowed the 8 percent residential.

Commissioner Hines pointed out this amendment just allows a different person to come in to develop the additional 3 percent instead of expanding existing apartment complex.

Commissioner Bales noted there are 2,768 approved but unbuilt multi-family units in Huntersville and does not believe any more residential housing is needed in the The Park.

Mayor Aneralla called for the vote.

Motion to approve Petition #TA18-11 carried 4 to 2, with Commissioners Bales and Walsh opposed.

Petition R18-12. Petition #R18-12 is a request by the property owner of 16715 and 16401 Davidson-Concord Road (Parcel IDs 01108103 and 01108107) to rezone their property from Rural to Special Purpose Conditional District to allow the development of a golf driving range on the property.

Brad Priest, Senior Planner, entered the Staff Report into the record.

Mr. Priest explained that a text amendment was approved to allow driving ranges in the Rural district so the applicant is now seeking a special use permit in lieu of the rezoning and have submitted a request to withdraw the application. However, a withdrawal of the application after holding the public hearing is not permitted by the ordinance. After the hearing, the application must be voted on approved or denied. Staff therefore recommends denial.

Commissioner Walsh made a motion in considering the proposed Rezoning Petition R18-12, the NC 73 Driving Range on Davidson-Concord Road, the Town finds that the rezoning is not consistent with the Town of Huntersville's 2030 Community Plan and other applicable long-range plans. We deny Rezoning Petition R18-12. It is not reasonable and not in the public interest to rezone this property because the applicant is no longer seeking approval of this application.

Commissioner Hines seconded motion.

Motion carried unanimously.

SUP19-01. Petition #SUP19-01 is a request submitted by the property owners of 16715 and 16401 Davidson-Concord Road for a special use permit for the NC 73 Driving Range.

Commissioner Phillips said I would like to disclose that I had a meeting with Frank Bragg on this past Saturday at my store discussing this. I also would like to disclose that I have had e-mails from both sides, from the Bragg people, from the conservancy and Mr. Jarrett so if the Town Clerk would make my e-mails on this matter public for the record.

Mayor Aneralla said I was actually going to deal with that once I stated.....

Mayor Aneralla said this is a quasi-judicial evidentiary hearing and that means it is like a court hearing. State law sets specific procedures and rules concerning this hearing. The Board's discretion is limited. The Board must base its decision upon competent, relevant and substantial evidence. A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. Participants are limited. This meeting is open to the public. Everyone is welcome to watch and parties withstanding have rights to participate fully. At this point I would like to ask if there are any disclosures that need to be made in addition to Commissioner Phillips.

Commissioner Hines said I would like to put into the record a list of e-mails that I have received regarding this project before I knew it was quasi-judicial. I played phone tag with Mr. Benton Bragg and then I disclosed once I found out it was quasi-judicial unfortunately I could not speak with them so I apologize first of all for not returning phone calls because that's typically what I do but in this scenario I was not able to do so.

Commissioner Gibbons said pretty much ditto. Early on in the process I met with the applicant, went out to the site and looked at the site and since then I have received emails from people that are both positive and negative on the project and those can be made public at any time.

Commissioner Bales said I also met with the applicant Mr. Jarrett early on, as well as received a voicemail from Mr. Bragg over the weekend. I apologize for not returning your phone call but when I read that this was quasi-judicial I knew I should not be making that phone call, as well as other e-mails and I'd like to enter those into the record. I only received e-mails on my town e-mail account.

Commissioner Walsh said I need to disclose that I had a conversation with Mr. Bragg on Saturday. I think even at the time I said I hadn't read the whole agenda packet. There were a couple of e-mails I think I responded back to one just saying thank you for your input. The ones I saw today I didn't even open up. They are certainly public record if anybody wants to look at them, but it won't influence my decision.

Commissioner Boone said I'm going to have to echo what most of the people said here. I've gotten e-mails. I've also spoken with Mr. Bragg but I'd like to add that I spoke with Alan White at the Pines in Davidson. Mr. White is there about the same time I am every week and I listened as he spoke and at that time I listened but I didn't add any information to the conversation.

Mayor Aneralla said we were all copied on the same e-mails, so I received those as well and did have several voicemails so I will also apologize for not returning those. I didn't open them. I just immediately forwarded them to the Town Attorney, so obviously if I do have to make a decision it won't influence me.

Angela Beeker, Town Attorney, said just for the record this was the subject of a conditional zoning and so there was a public presentation done and has been discussed by the Board in public for the record and everybody is aware of that.

Mayor Aneralla said based on the disclosures that we have heard from the Board concerning partiality and ex parte communications, does any member of the Board or any party to this matter have an objection to a Board member's participation in this hearing.

There were no objections.

Mayor Aneralla swore in Jack Simoneau, Brad Priest, David Jarrett, Bart Landess, Bill Clark, Frank Bragg, Benton Bragg, Sharon Wilson and Vince Fioramonti.

Brad Priest, Senior Planner, said I will enter the Staff Report into the record as well as all of the attachments that were attached thereto. *Staff Report attached hereto as Exhibit No. 12.*

Again, the application before us this evening was actually before the Board last month. It was tabled until today due to the site plan issues and the issues regarding the non-conformities of the ordinance sections that were involved.

The project is located immediately east of Bradford Park. It is zoned Rural Residential. You can see the property here in the photos before us. What I wanted to do is kind of just take some time to update the Board on what's happened since even the Staff Report went out. So the Staff Report went out last week and as you know and you see in your Staff Reports and the record there were still many items that were non-conforming with the ordinance and so we met with the applicant after the Staff Report went out and we talked about the issues and we did receive updated plans, updated lighting plans, special use permit plan and finally a tree save plan today. Staff got to actually review the plans and go through everything and look at it today. I wanted to just go through and take some time and because we are in evidentiary hearing I think it's important to go through each of those changes, because a lot of the information that I'm going to talk about the Board has not even seen. So we'll have to talk about those changes a little bit.

The special use permit plan that was submitted is here. What I would like to do at this time is take those changes that staff has received and enter them into the record and so it will be on file and then give you a copy so you can follow along if you so desire. *Changes attached hereto as Exhibit No. 13.*

Commissioner Gibbons said has staff had adequate time to review this plan and be able to make your recommendations tonight.

Mr. Priest said I think we have had a chance.....I've gone through it and I've gone through my Staff Report, the items that were itemized and I've had enough time to understand where we are in the process. I will say that in the changes that you have, you've got the special use permit plan, the tree save plan and the lighting plan, there were some other portions of the application that were already included in your package that are important to a complete package, so the information here is supplementary and I would emphasize that the package as a whole answers a lot of questions that staff had. And I'm going to walk through those so we will understand that. But they are kind of separated.....the new and the old together makes the complete package.

Commissioner Hines said Ms. Beeker, may I ask a quick question. With the tree survey report just coming in, procedurally since the Planning Board is the one that mitigates based off the tree survey, can we even vote tonight without the tree survey piece going to the Planning Board and having a recommendation.

Ms. Beeker said is the applicant asking for tree mitigation.

Mr. Priest said technically no. And I can describe that, but I think staff has the understanding that with the plan that we have we can move forward and approve or take action and if mitigation is necessary during construction it can go back.

Mr. Priest so the special use permit plan has been updated and it's there before you. Not very many wholesale design changes but I wanted to just give a picture of the plan so everyone can see. The lighting plan has been submitted. You will see I took various snapshots of the plan and put it together on the left. You will see the photometric plan. You will see on the right the actual proposed light fixtures that are proposed. You will see pictures of shields that would go on top of those fixtures and there's some technical things in here I'd be happy to describe when we get to the description of the changes of the plan.

Here in front of you is the tree save plan. The updated tree save plan that we got today in gray highlighted out shows what is proposed as tree save area. The bubbled area kind of shows the existing canopy today and again the gray would be what would be left or proposed to be left after construction of the facility. To answer your question Commissioner Hines, in the very bottom right-hand side of the plan there's a specific note that says tree save calculations are preliminary. If the tree save number goes below the requirements, tree save mitigation by the Planning Board is required. So the current numbers when you look at them there's two types of tree save that are required – the specimen and the canopy. Both of them are right at the requirement. Staff has had some discussions with the applicant on the feasibility and the realistic nature of whether or not it would be feasible to save those numbers with the proposed line as it's drawn. But with that note on the plan, staff is comfortable to say we are good now but once we get to construction if it goes below what's needed, it's going to need to go back to the Planning Board for mitigation.

The updated plan changes.....we talked about the tree save plan a little bit. The minimum requirements are met. It may need mitigation based on the actual constructed line, how much is disturbed, how much is saved, but preliminarily from a conceptual standpoint they are meeting the ordinance requirements. The 50' buffer.....so there's been some changes here. As you can see on the bottom of the page the 30' buffer that was proposed along the southern property line is now a 50' buffer. That has been changed to match staff's recommendation. So they did change that. The 30' buffer, however, remains on the west-hand side and in looking at that and talking it over has staff considering that to the west is a similar use in regard to the park and the lighting. Staff is okay and would accept and recommend acceptance of the 30' buffer adjacent to the park but on the southern buffer the 50' we thought firmly that that was called for and needed and so the applicant has changed it to 50'. Looking at it a little closer, however, if you look at the tree save plan, if you look to the bottom left where the property line kind of bends there, you will see that there is some clearing and some tree removal in the 50' buffer, which is contrary to the ordinance that was drafted and contrary to the notes put on the plan. So that's an outstanding comment there that we would have to fix.

A note has been placed on the plan as referenced in the Staff Report. One of the things that we wanted to make sure happened on this plan was there was some kind screening, some kind of buffer, along NC 73. With the lights, with the clearing of a lot of the trees we thought that some screening was appropriate per the ordinance and there was a note on the plan that said that both of the street trees would be escrowed meaning after two, three years or five years or six years when NC 73 is actually widened then the Town would actually come back and plant the trees. The problem with that would be five or six years after the construction of NC 73 that there wouldn't be any screening. So we amended the note, we worked with the applicant and they changed the note to say the sidewalk and the first row,

the closest to NC 73, would be escrowed to be planted at another time, but the second row, that evergreen row of trees for screening would be planted immediately. We thought that was important and they changed that note and so that has been updated.

You will see in the bottom left-hand side there's a bubble around the property to the south where the parking lot is and the tee box and there's a potential sewer area or septic area because as mentioned in the Staff Report it's still unknown whether or not the site perks and whether or not where the exact septic placement area would be. So they identified a septic area and more importantly they put a note on the plan for all parties saying that if it is determined that the area will not perk, the applicant will connect to public sewer line which is an FYI for everyone. We understand where it sits, if the property doesn't perk then they will have to go and seek a different route to do that. That note is appropriate.

An e-mail from NCDOT has been received talking about the turn lanes that may be required. And one of the comments from staff was that it is unknown whether or not this driveway would be acceptable for the use. Looking at the e-mail that's attached here from NCDOT it looks like turn lanes will be required for the use prior to NC 73 being widened. At that time when it is widened it will be a right-in/right-out only because they wouldn't be allowed to have full access there per NCDOT, but until that time, again in the ultimate two, three, four years that it takes to get it built, looks like NCDOT is going to ask for some turn lanes for access into the facility. So again full disclosure for all parties we now understand what's going to happen to that driveway. And again, too, the nature of the curbs area might change as well so there might be an effect on the site plan based on NCDOT's comments there.

For the lighting plan, on the left-hand side one of staff's comments when you examine the pictures on the right there were many fixtures on one pole and so you didn't understand where the lights were going on the previous submittal were they pointing toward the street, were they pointing to the adjacent property, so the applicant put a number on the plan of how many fixtures were going to be on each pole and has a line directed and oriented where each light is going to face. If you look at the lines on the plan, you will see sometimes there's three lines, sometimes there's five lines. There's a very important note on the plan that was added that says these lines indicate the aiming direction of the lights. The lines on the tee boxes show that the lights will be oriented in a downward direction to only light the tee boxes. So that's an important note for staff because you see those lights to the right and to the left of each fixture....some of those lights point directly at NC 73 and some of them point directly at the southern property. We know and we understand that because of the applicant's lights and what they want to do, some of those lights are going to be up and not down. So it was important to note that the lights pointed towards 73 and the lights pointed toward the southern property line were down and not out. And so what this note <inaudible> is the ones that are up are going out immediately to the east. The ones going to NC 73 and the southern property line are down toward the tee box. So that was an important note to understand that the glare from those lights would be reduced because those lights towards 73 and to the south will be down and shielded.

Again, a note on the lighting plan added said that each fixture for the driving range will be shielded. That was an important one. A note was added on the plan saying that the parking lot lights and the greens will be full cut-off fixtures. The uniformity ratio was also fixed on the parking lot. That was not in conformance with the ordinance, but now the uniformity ratio is. The flexibility note on the lighting plan that said that some changes would be made later on has been changed to say minor changes would be allowed as approved by staff, but the maximum lighting level as shown on this plan would not be exceeded. And then also the street trees that were shown to be 50' on center are now 40' on center in conformance with the ordinance requirements.

That was a little bit of a summary of all the changes. I just wanted to also point out here's the property in question and this is the preliminary public hearing information that NCDOT put out for the NC 73 widening and just to get an idea of how much the property would be affected by the widening again from preliminary maps and we can talk about that a little bit if we need to as well.

The Planning Board recommendation. This was back in February, late February, the Planning Board made a recommendation to deny the application based on the deficiencies of the plan at that time. Again they have not seen the updated plan, but at that time it was a 6-2 vote to deny it based on the deficiencies.

Staff recommendations. Staff can support the application. Going back a little bit when the text amendment was on the table staff did not support the text amendment for this type of use in this zone but now that the text amendment is approved it becomes more of a concise question of whether or not the application is conforming to the ordinance. Staff can support that if conforming with the ordinance with a few changes, a few tweaks. The lighting levels are recommended to be reduced a little bit down closer to 20. The International Illuminating Engineering Society recommendation for putting greens for golf courses and for tee boxes for driving ranges was actually submitted by the applicant and is included in your package. And what they recommended was a maximum 20 foot-candles for the tee boxes. If you look to the top right here in the box and the tees, there's a maximum 29 there. So we recommend that maximum come down a little bit in regard to being more consistent with the recommended lighting levels for tee boxes. Also, if you look in the bottom left box you see the putting area is up at a max of 12.8 and an average of 9, so we would recommend that the IES recommended 5 be more closely adhered to. So we recommend the lighting levels be reduced a bit, at least to be.....now the ordinance says 15 but the IES recommendation for tee boxes is 20 so we accept that, that's the recommended needed lighting level, again to just be more consistent.

The tree save requirements, we recommend they be met, which it looks like they can be with the preliminary plan. And then the condition that the 50' buffer to the south remains undisturbed.

That will conclude everything. I tried to wrap it up as quickly as possible. I'll be happy to answer any questions that the Board may have.

Commissioner Gibbons said so the staff recommendation is you are supporting this with all those conditions met.

Mr. Priest said correct.

Commissioner Phillips said so they have met all the criteria of what you are looking for.

Mr. Priest said from what I have seen in my review today, yes. I've gone through that information. I think with some changes.....again with what you have, a combination of what you have and what I have and what I just passed out, I believe so.

Ms. Beeker said what about this 1, 2, 3 on your staff recommendation.

Mr. Priest said yes, those are not. Those are the three ones that we recommend need to be met. The tree save requirements I believe can be met. One and three are ones that are outstanding.

Commissioner Phillips said but you are saying if they make these changes then they have met our ordinance.

Mr. Priest said yes, sir. That's my opinion.

Commissioner Hines said the lighting plan, just so I'm reading this correctly, so if I'm looking at the south boundary line is 0.1 assuming at the line it's zero bleedover, is that correct, based off the lighting plan that we are seeing.

Mr. Priest said yes, sir, at grade, which is what we measure for and it's standard to measure for, but I condition that to say when you look at the plan you can look at for instance in the top right-hand box, 200 yard verticals, 15 feet AFG, so essentially 15' above grade the lighting level is higher than what it is at the ground so it's possible the 0.1 at the property line 15', 20' is higher. So it's 0.1 where it matters and from staff's perspective the lights that are pointing to the south are down, so the glare is greatly reduced. How much light is actually 15' above the property line, we don't know and didn't write a requirement for that.

Commissioner Walsh said I just want to go back to the lighting for 73, so you are now comfortable that we won't have any.....I was just the other night down on Arrowwood Boulevard and they had one of those like Top Golf places and I could hardly see driving by so you guys are now comfortable with the lighting, it won't flood out onto 73.

Mr. Priest said I'm comfortable with the conditions that they have shown on the plan. They are saying that the fixtures that are more oriented to NC 73 are down toward the tee box, so I'm comfortable in understanding that there's not going to be a light shining directly into NC 73. How much light will one see as you go and will you see the lights going east, there's probably going to be some. How much, we won't be able to know until it actually happens. But I'm comfortable understanding that the ones actually pointed to NC 73 are not out and are not going to be a huge issue. In my estimate it would be comparable to Bradford Park, probably some pointed toward the street, but they are down and shielded.

Commissioner Walsh said then we have a natural area to the south. So light pollution getting down there....I know we don't have any houses, but we've got wildlife. What about light pollution.....basically light pollution getting off the property.

Mr. Priest said if you look to the fixtures behind the tee boxes you can see the long lines, those are the lights that are pointed upward. So those are not pointed toward the southern property line. Those are essentially due east or due southeast.

Commissioner Walsh said I was going to say I see some southeast trajectory there, it's hard to tell where that would dissipate.

Mr. Priest said also keep in mind we now have a 50' wooded buffer, so that would also help dissipate the light from these lights from very far away. The ones that are impactful are directed downward, so there's a comfort level that has grown with staff understanding exactly what the orientation of each one of the fixtures is and they've put that on the plan.

Commissioner Hines said when you are referencing the 50' buffer to the south remains undisturbed, is that the area you were showing earlier where they were clearing in the 50' buffer.

Mr. Priest said on their tree save plan they showed an area to the south where you see those trees with the circles with the x's on them. That's within the 50' buffer and that's a clearing area inside the 50' buffer.

Commissioner Hines said so that condition would go away if they didn't clear any of that, because that's the only area they are clearing.

Mr. Priest said they amended the plan to back off of that.

Commissioner Boone said Mr. Priest could you go back to the lighting plan again. I think it's a little deceiving when those nine poles that are shining lights from west to east and that light is going to end right there at the pond, but really that light line goes all the way off the chart if I'm looking at this right.

Mr. Priest said the light would continue on but again you also want to keep in mind that the gray area here would be undisturbed trees.

Commissioner Boone said are those trees 80' high, I think that's how tall the poles are.

Mr. Priest said no, the poles will be a maximum 40'.

Commissioner Boone said 40'. Are those trees 40'. I don't think they are.

Mr. Priest said my assumption would be the mature trees, the specimen trees would be. I can't speak to the height of all of them.

Commissioner Boone said and the reason why the poles are 40' is why.

Mr. Priest said because the higher the lights are, the more likely they are to become an issue for glare and light trespass.

Commissioner Bales said going back to Bradford Park's lights, how high are they.

Mr. Priest said most 60', some were 70' and I think a couple of them were 100' at the soccer field.

Commissioner Bales said so just in comparison 60' to 100' on the park side and this would be 40' high, understanding that they are shielded, too, for direction.....to keep it off of 73, to keep it off the south side and so forth.

Mr. Priest said that's correct.

Mayor Aneralla said let's hear from the applicant.

David Jarrett said I'm representing the petitioner Erik Herberth. He's here with me tonight. I think the best place to start is probably with the lighting, so that's where we are at. Just to start with lighting, as you said the lights at Bradford, the soccer lights I believe are 70' to 100' and they have 45 to 55 foot-

candles is their count. The soccer fields are much higher. They are like 65 foot-candles. What we are proposing is a maximum 25 I believe and that's just.....so if you can see the tee boxes and those angled lights from each pole, those shine down on the tee boxes and if you look at the foot-candle counts they are high just at the tee boxes. As soon as you get about 70' away, they go down very rapidly. So if you could zoom in here as soon as you get 75' away they are at probably 7 foot-candles and then it dissipates very quickly on the ground level. At the 15' high level if you look over to the right side it's got the 200 yard vertical at 15' AFG. Below that it tells you the foot-candle maximum and average at that distance and the maximum is 5 foot-candles at 15' high, 200 yards out. So as you go further the foot-candles are going to get lower. And again as we have discussed in the rezoning process, what we are trying to do here is similar to Top Golf so that's why we are asking for more lighting shooting out so that we can track the golf ball as people are hitting it. That's part of the feature of the driving range, so when you are out there under the lights you will be able to hit your golf ball and you will be able to look on a screen. You can play a game or you can track your statistics – how high did it go, how far did it go, how much spin did it have and you can practice with that. So the intent here for us is to shoot out but again if you look at those numbers we are still well below the 15 that the SUP said we could be even at that distance and at that height. So we feel like we're meeting the intent of the SUP.

The other thing we're doing, again if you look at all the long angles, they are angled away from 73 and we are keeping the buffer of trees along the eastern property line or the southern property line I guess. So all that stays. So all of our lights are shooting into trees that are on our property. The hope is that we save more trees so when we do the final grading plan, that's why we left a note on there as Brad stated about the tree save. Our intent is to save more. So if we can save more trees, we want to save more trees. The more the better. We just don't have that final grading plan to say what it is. If we need to grade around some trees to keep trees we are going to do that too. We don't want to take down any more trees than we have to. So our intent is to keep it as natural as we can and to prevent all of the offsite lighting that we can. If you look at the numbers even at the bottom the ordinance I believe says it has to be 0.1 foot-candles at property line and we're there. We meet that ordinance on every boundary. So lighting-wise I feel like we are covered and we've met everything that we set out to meet and I think now that we've talked through it with staff I think as Brad said they are more comfortable with what we are proposing.

What we are asking for and one of Brad's comments was to try to lower the tee boxes to 20 based on the IES recommendation. Our problems with the lights we have we can't get to 20. That's why there's a flexibility statement in the text amendment that allows in certain instances for it to go higher. So we are asking....it's still I think a maximum of 25 and if you can zoom in on those two points right at the light fixtures it's just for 60', 70' outside of the light pole. And it's all directed downward to the tee boxes. So none of that high intensity light is getting out. It stays on the tee boxes. And again the point of that is not only for the top tracer system to track the ball but it's also for safety on the driving range. We need to have a couple of things.....no shadow so that when you are swinging it doesn't bother anybody else so that it's fully lit and we want everybody to be able to see when they are out there. So really we believe the driving range is lit adequately for us and that's what we would like to keep it at instead of staff's recommendation to bring it down to 20. We feel like where we have it is the most optimal for what we are trying to do.

The other thing that staff has mentioned is the greens. The greens we have I think the average on the greens if we look here the max is 12.8 on the one putting green and then 12.8, 13.1 and 12.7. Again, below the 15 FC that we were required to meet under the SUP, so we are under that number. And also it's the same thing for the putting greens – 5 foot-candles is recommended in the IES that Brad

mentioned for a golf facility. It doesn't mention anything for a driving range facility. It says on a golf course, if you light a golf course, the recommended lighting is 5. And again it's just recommended. It's different for every application and here we are more of a teaching/learning, enjoyment institution or property so we want to be able to again no shadows and light it properly. We've tried to use lower poles in those areas and the light again is just concentrated on the greens. So if you can look at the numbers which are very hard to see, nothing really goes outside of the putting green areas that are very high in number. Most all those are probably well below 5' after you get outside of those areas.

So for the lights we feel like we've done as good a job as we can to try light it adequately for what we are trying to do and to stay under the SUP requirement of 15. So for those short game areas we would ask that they remain as they are. I'll say too that if you remember the Frankie's Fun Park application that went through the SUP on the mini putt-putt courses their average is about 14 or 15 on the putt-putt course that was approved. We are asking for something that is lower than what was approved at Frankie's during their SUP. So again I think that speaks to maybe a little bit of consistency of the lighting needed to see properly on the putting greens. So that's what we are asking for there.

Again we met with staff on Friday morning and tried to get all this changed in time for this to be able to show, so we did miss some tree save area here and some x's, but be assured again as I said we are going to save everything we can. We are not going to grade into the 50' buffer. If you do look at the grading plan, the grading plan would show no disturbance in that area. So we just missed catching that and correcting it on the tree save, but our intent again is to cover all of that with no disturbance to the buffer area. That was something that we talked about and agreed to Friday morning and it was just something that got missed on here, so again we are agreeing to do that. We're going to stay out of the buffer.

Mayor Aneralla said Mr. Jarrett, can you just put your finger on where you are talking exactly.

Mr. Jarrett said it's the bottom left. He's close to it right there. You see where there's a dashed line that extends out and it's white above the gray. So that piece of white that's between that dashed line is the 50' buffer. So my tree survey person just neglected to change that. So again if you looked at the grading plan we fixed though, the grading limits shows stopping at the 50' buffer line. So again the intent is not to disturb anything in the 50' buffer and we are in agreement to do. It was just an oversight in the short time that we had to correct it. That certainly is not a problem.

I guess lastly we are just asking for your support. We think it's a good project for this area. We think we've done everything <inaudible> with staff. We've met and I think agreed to everything other than those three points that I just mentioned to get this in what I believe in compliance with the SUP and the text amendment. So we are just asking for your support tonight and I'll be glad to answer any questions.

Commissioner Bales said you said 25 foot-candles. In my packet it says 29 foot-candles.

Mr. Jarrett said so 29.....I marked on mine in green to try to find the foot-candles, so 29 may be here somewhere, I couldn't find it. I know it says it in the chart, that's why 25 is on my mind. So you may be correct, I just couldn't find it.

Commissioner Bales said I just want to be clear in what we are being asked and what staff is recommending.

Mr. Priest said the evidence submitted it's there that says 29 up in the upper right-hand box and so that's what we were going by to say somewhere there's a 29.

Commissioner Bales said it's here, it's maximum.

Mr. Priest said we would recommend.....I don't think the recommendation is we don't want a maximum of 20 but we want to break that 29 down at least as close to 20 as possible is our recommendation. The same with the putting greens to 5.

Commissioner Bales said and just to be clear the text amendment was 15.

Mr. Priest said the text amendment was.....yes, anything over 15 required the Town Board to make special consideration.

Ms. Beeker said just for point of order on that, it says if you are going to modify lighting standards provided the spirit of the ordinance reducing glare and offsite light trespass is maintained. So that's your standard that you have to determine would be met with the change in the lighting plan.

Commissioner Hines said this IES lighting manual, it is only a recommendation. Do we have an expert here.

Mr. Jarrett said I did not bring one, no I did not bring an expert. But again that's the understanding we have is it's a recommendation and again it can vary based on maximum/minimums and again we have a couple of higher numbers. They're over 20 though, so our average is.....do we have an average for the tee boxes.....the average is 17 on the tee boxes, so that first where it says tees 35 points. The average is 17. The maximum is 29. So again as you get the light at a certain point to try to cover the angles I could add two more poles and probably reduce.....probably, I don't know.....probably reduce that number but we felt like 29 even though I didn't find it, it is there and it's on the sheet, so 29 is the maximum but the average is 17. So we feel like the average 17 is still below what's recommended at 20 and I'm not sure, I don't have that in front of me, but I don't know that it says maximum on the IES sheet. I think it just says recommended 20. So we're an average of 17, which is below the 20. And all of the lights that have the higher numbers again are pointed down to the tee boxes so it's really no different than the putting greens. It's oriented down and hitting a spot that's 20 yards wide and then stopping. It doesn't disburse any further. The glare is.....there is no glare because it's down to the ground, so it's not shooting out to 73 or to the property lines anywhere, so the glare has been reduced based on that.

Bart Landis, 4530 Park Road, said I'm the Executive Director of the Catawba Lands Conservancy and the Carolina Thread Trail. The Catawba Lands Conservancy preserves green space for the public and the Carolina Thread Trail provides trails throughout our community for people to connect to nature. We are here because we have conservation easements on adjacent properties that are significantly affected by these and we need to protect our interest. First I would note that we have not had a chance to review the revised plans. And so all of our comments will be on the plans as filed and then this evening's discussion and I'll do my best to try to relate those together. So I would first request that we have a chance to review the plans. Secondly, we would note that this is in a Rural district that is very dark at night and so the lighting will be a dramatic and sudden change. And the third thing to note is that from the plans as filed we identified 11 non-compliant issues, which reflect very much of what the prior staff

comments were. So I'll take just a minute to hit those with maybe some related comments as to the plans that were reviewed tonight.

One of the first items in the ordinance is that the SUP should not be approved if it involves a safety hazard to the populous. One of the things that was not discussed in tonight's plans is errant golf shots and I would tell you from firsthand knowledge that those can go a long way off line and the plans as filed only showed straight shots. So I would say first that you might have an issue with golf balls going to 73 and the second safety issue which has already been discussed is the possibility of glare on the highway. The SUP also asks that the use not reduce the value of adjacent properties. Those adjacent properties have all their remaining value in being rural and quiet and calm and dark. The folks who provided those easements to us and to the community did so to keep them that way and this would be a fairly significant change in how they are viewed. The subject property is a keyhole in that conserved property and so all of these things will very much affect the neighboring properties. There's been a good bit of discussion of the lighting and in the original plan as noted it was not at all clear....

Mayor Aneralla said Mr. Landis you have three minutes, do you want to submit those additional comments.

Mr. Landis said did Mr. Bragg hand them to you.

Commissioner Boone said yes, he did.

Mr. Landis said so those note all the exceptions to the plans as filed, so let me then note a couple of things that were not discussed in the prior comments. First is that there is no indication from any of the commentary about what the remedy might be if compliance did fail. How would it be fixed. What would it cost. How would the community and the board take on this issue if some of these if's in the plans are not met.

Mayor Aneralla said alright, well thank you, sir. I'm sorry. Our next speaker is Mr. Bill Clark.

Bill Clark, 3515 Kylemore Court, Charlotte, said I'm the southern property owner. I'm the adjacent property owner. I will try to stick to facts because I was told this is not a popularity contest. One fact is that I'm pleased to have the opportunity to get my point of view across. There are countries in our world where citizens are not listened to about things like this. Nearly 35 years ago I put together the three parcels there and had I not met my wife I would have been living there 25 years ago, but you know wives get in the way of your plans sometimes. We are all familiar with the NIMBY, not in my backyard phenomenon. This is not regular backyard. This is 750 contiguous acres that have been put together over 35 years by hard work by multiple individuals. So I am not a NIMBY person, this is not a regular backyard. That's a fact I think. We will suffer terrific potential financial loss here because I have 57 acres, I could have 100-150 homesites if I sold to John Crosland. Now I have two, mandated by the easement.....happily give that easement but there is no way if you will look at the photographs from the other institution that we had photographs taken of, there's no way that somebody is going to buy a house site to live on with this light pollution in my opinion. That's it for me. I'm not a lawyer. I didn't have all these facts at hand, but this to me is an inappropriate abridgement of 35 years of work to preserve a jewel, unique to Mecklenburg County that is undevelopable land.

Frank Bragg, 16030 McAuley Road, said this is an extremely complicated issue and it became complicated because of the lighting. And the lighting report was so late coming to the table that I feel

like it's a huge problem that's really not clear at all in my mind. I know nothing about lighting except I'm grateful to Duke Power for giving us power. So that's the first issue. But the second one is to take a look at really what is the economic impact on the conserved land. And you say well how could it be. It's a nature preserve and a nature preserve is not a people place so you say what's the impact on people's houses. There are very few houses. Bill Clark has two house sites. He could have 200 as he said if he sold to a developer. But he can't and it's permanent. Those house sites are probably worth nothing with this project. The best way to illustrate it is if this project was brought to you and it was proposed to go in next to the Latta Plantation Park or Cowans Ford Refuge, two of our great nature preserves, would you approve it. Heavens no you wouldn't approve it. You would not approve it if it went in against those two wonderful nature preserves. The Ramah Creek project is just like Latta Plantation except we have birds they don't have. It provides for the natural and is so important that all the boundaries be protected and I plead with you to reconsider all of this lighting plan. I don't understand the lighting plan but I know what the pictures show us. They mentioned Top Golf and it's horrendous. Top Golf has been sued around the country and some of the cities who permitted them to come here have huge lawsuits. Google it tonight and you will see. I'm not an obstructionist. I'm too old to have enemies. And I work with Erik. I met with Erik and I want him to be successful. I think it's a great project. I supported it out of the box the first time because the lighting plan was not part of the discussion. It seemed benign to me to have an old golf driving range. But the more I have learned about it the more overwhelming it has become. I do not think it's compatible with the conserved land or with the historical McAuley Road. I ask you to either postpone this decision. If you feel pressured to do so tonight to vote on it, to vote no. But you shouldn't feel the pressure. Like Bill Clark said we've been building this conservation project for 30 years and all of a sudden all this overwhelming lighting is going to go in adjacent to it. It's not compatible.

Benton Bragg, 16425 McAuley Road, said I'll be brief. I'll only add the fact that your ordinance calls for 15 as being the maximum lighting and this plan shows 29 and your Planning Staff is encouraging them to get it down to 20. So the fact is your own ordinance calls for 15 and they are almost twice that. And it greatly exceeds your ordinance. In our opinion, as Frank stated, we originally thought this was going to be an old fashioned driving range with a bucket of balls and down lights. I went out to Top Golf last week and took pictures and the lights are unbelievable. They shine horizontally and from 1,000' they are unbelievably bright and I know that these indicate that they won't come onto Dr. Clark's property, but with the top tracer system and the developers have said that's what they are using and they are going to be similar to Top Golf, go out there and you will see that it will destroy this conservation project. That was some opinion, but mostly fact, it's about the lighting requirement. I think this is a great amenity for Huntersville. I would love to take my kids to hit golf balls with this new technology but it belongs in a commercial area. I picture it beside a Carowinds near the interstate like Top Golf is. It's a great amenity but not here and the town, the county, the state have partnered with Catawba Lands Conservancy with all the landowners here and created something really special, so I hope you will honor your own target of 15 with the lighting and reject or postpone this project until it can be met. Thank you for your service and thank you for letting me speak.

Mayor Aneralla said our next speaker is Ms. Sharon Wilson.

Sharon Wilson, 4530 Park Road, Charlotte, said everything I wanted to say has been said.<

Mayor Aneralla said then our final speaker is Mr. Vince Fioramonti.

Vince Fioramonti, 15120 Pavilion Loop Drive, said full disclosure that's the same address as Catherine Graffy on the Town Planning Board. I support the driving range. My background in golf is 5 years. I have worked in high school and college at a golf pro shop. The first year out of college I also worked in a golf pro shop deciding whether I wanted to pursue a career of golf. I played for over 50 years at both public and private golf courses. I've gotten to know Erik over the years and basically two comments here to really set the vision here. First this is not just a driving range. This is going to be a golf academy. And secondly this is not just Erik's, this is Erik and Julie's vision. They are both elite college golfers. They already now have for their junior program, because we want facts, they've taught over 300 juniors. They have 30 college golfers in their program. They start kids as early as 5 years old. It's not just juniors. Julie excels in getting women out to play golf. And Erik by now has a very robust roster of adult members. In talking to Erik over the years this has been his vision. See all those numbers I mentioned, they've been sequestered at Northstone private club. This is going to be a public venue. This is going to be a magnet for other golfers from other towns to come. More golf pros will join Erik and Julie. Why is this is going to be magnet is look at the scarcity value. Julie and Erik are already accomplished in their craft – 30 college golfers. They have the capital to fund their dreams. It's going to be not segregated in a country club. And it's going to be a multi-year enterprise. They are still very young. The comments I've heard....yet there's similarity in Top Golf because of the technology but this is a golf learning site. They want to have the technology because that's how you improve your endeavors. It's ideally situated next to Bradford Park – baseball, hit a ball; golf, hit a ball. The enterprise is going to be on private land. It's unfortunate that there may be some lighting issues that's part of the new technology they are using but at the end of the day it's going to be a great economic benefit and tax revenues for the town and through the success of their students this is going to be a vision so I'm proud that it will have our name in Huntersville.

Mr. Jarrett said let me start by addressing.....I probably did say Top Golf. It is nothing like Top Golf. It is a teaching facility that they will take from Northstone to this property. Top Golf as you know is three levels high with three different decks of hitting bays. This will never be that. It's a single-story barn type unit that you will hit off the ground, you are just able to use that top tracer technology. Do we have lights out there, yes we do. We tried to keep them as low as we could, which was 40'. They shine out, but as you see from the lighting levels they get very low the further you get out. We feel like that it's not going to be an impact. That's why we increased the buffer per staff's recommendation, to give the 50' buffer. That's why we've got tree save at the end. In our opinion we are doing as much as we can to minimize any offsite lighting. Are you going to drive down NC 73 and see the lights. Sure you are. You'll see the lights but they are not pointed at you. But you will obviously see a light. It's no different than what backs up to the park now. You've got a soccer field, you've got the softball fields. They are there today. We are just adding to that. I think it's a good project for the area and we think it will be beneficial for everybody. We appreciate their concerns and we feel like we've addressed them with the things that we have added and kept in the project. Again, I'll say the 29 number that's in there is only in a few areas and it's pointed at the tee box. So we are limiting the amount of light that's going to trespass because of that, pointed that towards the tee boxes. Is it higher than the 15 that's in the SUP. Yes, we are asking you to use your ability to approve something a little bit higher based on the location and parameters of what we are trying to do. So for the lighting we feel like we've accomplished what we set out to do when we started putting this package together.

<inaudible>.....golf balls leaving the property we had a question about that.

Mr. Jarrett said we did submit a letter that I believe was included in your package from Nick Mazzella who's been in the industry for a long time that wrote a letter describing typical practices and how you

orient things. You can ask a question if you need to. I think it's pretty self-explanatory if you have all read the letter. So the letter is there to address that. We feel like there's little chance, if any chance, that they are going to get offsite into NC 73 as we discussed previously. If somebody wants to be egregious and turn around and face 73 and hit a ball, they can do that. They can do that anywhere. We will obviously pursue legal action against those people and prosecute them for that. That's not what we are about and that's not what typical people at a driving range are going to do. So we feel like with his letter we've explained any offsite balls going off the property. I believe that's it. If you have any more questions for me, I'm happy to answer, but we just look for your support. We think we've got a good project here and just want to get moving with construction.

Commissioner Hines said for Mr. Mazzella, I'm sorry if I mispronounced your name. Can you talk about your expertise when we are looking at this letter that you are an expert in answering this question.

Nicholas Mazzella said for 20 years I have been in the golf course construction design and development industry. I've built golf courses and renovated golf courses from coast to coast in the United States and the Caribbean. Multiple municipal facilities and host venues to major championships, so I've seen a fair amount of golf and golf development. There are no standards for this. There's no book that you can go to like NCDOT has that dictates what safety corridors are, but I can tell you based on industry standard that these are well within what that industry standard is. Like David said there's no issues with an errant shot leaving the property here. Someone would have to do that intentionally. This is well within whatever safety corridor planning that I've seen in my 20 years.

Commissioner Hines said so I think you said in your letter it would have to be an intentional shot towards 73.

Mr. Mazzella said someone would have to literally turn their back to the intended target line or turn on an angle with the intention of hitting it onto 73.

Commissioner Bales said what about balls going south into the conservation property. Is that possible as well?

Mr. Mazzella said I haven't studied that to know. Based on where that tee location is and what the topography is, the topography will affect that as well, based on what the grading plan is.

Commissioner Bales said have we taken a look at the lighting impact on the wildlife to the south as well.

Mr. Priest said we have not and I don't think staff would be expert testimony on that to be able to say how it would affect wildlife. Our focus was mostly on the definition of glare and the human impact on vision and it's defined in our ordinance, so we have not gone into that depth of how it would affect wildlife.

Commissioner Bales said when this was originally discussed and there was a maximum lighting level of 15 foot-candles and understanding that the park's foot-candle is much higher than that, now that the proposal and the request is for 29 foot-candles I'm just trying to get a better sense of what that would look like on the wildlife that's in that area.

Mr. Priest said correct and I cannot speak with authority on that.

Mayor Aneralla said how close is the nearest soccer field or softball field to the preserve.

Mr. Priest said I do not know. It might be in the aerial photography. There's the soccer field and immediately to the south, I'm not sure if that's in the preserve or not. But it's at least several hundred feet to the southern property line.

Commissioner Gibbons said we've got pretty close. We've got three outstanding issues, one of them being lighting. The only objection is really lighting. We've talked about errant golf balls but that's not a concern to me. But we've got the buffer. We've got undisturbed tree save. We are going to have tree save, mitigation if required so here we are talking about lights. Well I think you would have no objection and when you run a business having no objections to what's going on at your business is always helpful. I think an earlier shut off time of the lights would probably help solve all of this. Is this something that we could live with, because then I'm not going to be out there measuring what number light you have after you open this up. But your neighbors aren't going to be having light going out there after say 9 or 9:30 p.m. at night. In the summer months you know 9:30 p.m. is about when sundown is. In the winter months when it's cold I don't know that people are going to be out there and you could still have your.....I don't think.....I wouldn't say.....that before she could close your facility for any other but that's a big sticking points. That's the big problem with the neighbors. That's the problem with the conservancy. I'm just like common sense, I want to find a solution so that you can have something, run a business and do it but because I think one of the questions that was asked was let's say we get out there and we set this up and we find out we can go out there and measure and we're not in compliance, what's the remedy at that point. We've spent lots of money of your money to do something and now what.

Mr. Priest said what we would do after construction of the facility, after permitting, we would request and it's in the ordinance that we do this, is request an electrical engineer to certify that the lighting plan that was submitted was constructed and is operating as shown. They would stamp the plan approved to say that it is or it is not. Is it possible that it could be off, yes. Sometimes that does happen and they have to fix the lights. But the certification would ensure compliance with the lighting plan as approved.

Commissioner Bales said are these lights going to be on all day or do they only.....so it's a separate system that follows the ball.

Mr. Jarrett said the lights are just for night time, so it's just during night hours. So winter time it's 6 p.m., summertime it's probably 9 p.m. – 9:30 p.m. and they are off by 11 p.m. It's just to be able to utilize the system at nighttime. If the lights aren't there, the system won't work. If the lights aren't there we can't hit golf balls either.

Commissioner Bales said it just dawned on me that we never asked that question of whether the lights needed to be on for it to operate or not.

Mr. Jarrett said they do not. So daytime hours, no lights.

Commissioner Hines said I think you stated earlier, Mr. Jarrett, that you think you could hit the 15 foot-candle if you added more light poles.

Mr. Jarrett said we don't know the answer. Again, I think the problem is with the height of the light and again remember it's just shining down on the tees. It's not the ones that shine down the range that are

really impacting offsite glare or anybody can see them. These are pointed down at probably 45 degree angles, like such, pointed down at the tee boxes so that you are not getting it. If you zoom in and look it's just the tee box area that has the higher lighting. I don't know if we could get down to 15 even adding more. And again as you add more it adds more cost, it becomes prohibitive for us to be able to afford to do it, so we think what we have here satisfies what other than being above the 15, which we are asking for, it does the same thing. We are still shielding downward so that all the light is pointing down just on tee boxes and that's it. So as soon as you step 10' off the front tee box that light goes down to 7 or 5 very quickly if you zoom in and look at those numbers. So it's just in the areas you are walking. So it's just in the area where you are swinging your golf club. And again to try to go lower numbers it gets into the shadowing. If you've ever been on a poorly lit tennis court or something like that and there are not good lights, you've got shadows that are following you around everywhere and it's hard to see the ball and it's hard for the system to operate.

Ms. Beeker said who prepared the lighting plan.

Mr. Jarrett said Haas & Kennedy Engineers.

Ms. Beeker said would it be helpful to the Board to hear from a lighting expert. I think that you would have that option if the applicant were willing you could hold the hearing open just to hear from a lighting expert to give you a greater level of comfort in evaluating the lighting plan. It's an option that you have.

Commissioner Boone said I've sat here and listened to this debate and thank you for being respectful to each other. On one hand is we have somebody that has a great product that looks like a good fit right in this area, possibly another Luke May coming out of Huntersville, but a golfer. But I don't think we've had the opportunity for the people that stood up here and spoke against it to take a look at this lighting plan. You worked together before. I think if you sit down and show them the numbers that you've really got to look at they might like this new lighting plan. They haven't had an opportunity to look at this. I'm going to make a motion right now to defer this until April 15 and I know you're on a time constraint but I think that's the best thing to do for everybody.

Commissioner Phillips seconded motion.

Mr. Jarrett said we have shared the lighting plan with them. So we'll be glad to sit down and discuss it again but the lighting plan was shared but we'll be happy to do that again. It's not a problem.

Mayor Aneralla said Mr. Bragg you are welcome to speak as an adjacent owner.

Mr. Bragg said Erik was kind enough to send me the lighting plan but I can tell you I didn't do good in Spanish and French in college but this was worse than Greek. I understood zero. So we got the lighting plan but it didn't mean anything. I agree with Commissioner Boone that we need to know more about the lighting plan, because this has been the thing that we are hung up on.

Commissioner Boone said were you the only one that got the lighting plan. These other people out here, did they get the plan also.

Mayor Aneralla said in other words did the adjacent owners receive the lighting plan in total.

Mr. Jarrett said so the answer is no. We submitted it to them and it's been on the website, the previous version showed pretty similar to what's there today. This was just a combined effort.

Commissioner Boone said I think this is the version that sold me on the program but I wanted everybody to take a look at this and as the Town Attorney said I think if we got an expert to give expert testimony, but I'll still stand by my motion.

Commissioner Phillips said I'll stand by my second.

Mayor Aneralla said just for clarification are we keeping this open until the April 15 meeting.

Ms. Beeker said you would have to keep the evidentiary part open to hear from the lighting expert, but you need to set some parameters on it as to is that all you are going to entertain is expert testimony about lighting.

Mayor Aneralla said in addition we would not be able to consult with the lighting expert and have any discussions with anyone.

Ms. Beeker said not outside the hearing, but you certainly could here and ask all the questions.

Mayor Aneralla said sure, so between now and two weeks, please don't e-mail.

Ms. Beeker said yes, no more communications with the Board members.

Commissioner Bales said so just for clarification we would leave this open. We would request to hear from a lighting expert and at that point we would also consider hearing from the adjacent property owners as well so that they can weigh in on what they've heard as to lighting.

Commissioner Walsh said I just want to make sure we are not limiting ourselves strictly to lighting. I think that would not be a good idea. There may be other questions that come up as a result of it.

Ms. Beeker said that's at the pleasure of the Board.

Mayor Aneralla said I agree and actually I think we could even call in somebody from the Raptor Center.

Commissioner Gibbons said when is the next Planning Board meeting.

Commissioner Boone said I'm talking about the Town Board meeting on the 15th.

Commissioner Gibbons said right, but they don't have a meeting between now and then.

Ms. Beeker said they wouldn't consider it again.

Commissioner Hines said I support the motion and the reason is if I look at the nine conditions, they've met 8 of the 9 and the one that we are hung up on is the lighting. If the applicant comes back with being a fact based decision....if they come back with 15 foot-candles this Board would be required to

approve. But if not that's why we are going to the lighting expert to understand really what all these numbers on a piece of paper mean. That's why I'm in favor of the motion.

Commissioner Walsh said I'm supporting the motion, too, I just want to make sure that we don't limit ourselves the next time with that discussion and I even heard some stuff just talking about well, there might be a solution it's just going to be more expensive so.

Ms. Beeker said I would ask you to consider not allowing additional people who didn't attend to give general input.

Commissioner Bales said so only those that were sworn in today and the lighting expert.

Commissioner Gibbons said Mr. Priest would you do one more thing before we make this vote. Would you put just the page with the three conditions up there, please.

Mr. Priest said yes, sir.

Commissioner Gibbons said it looks like 2 or 3 are going to be done.

Commissioner Phillips said 50' is done.

Commissioner Walsh said I think there was a question on the 50' on the west side.

Commissioner Phillips said yeah, but it's because that's a clerical error.

Commissioner Hines said can I ask Ms. Beeker one question. Outside of this hearing I cannot even talk to a fellow commissioner about this.

Ms. Beeker said you should not.

Commissioner Hines said so I'm just waiting for the next two weeks to hear from the lighting expert.

Ms. Beeker said all the deliberations need to be in public.

Mayor Aneralla said thank you all. Mr. Bragg, please if you want to address, come up and address.

Mr. Benton Bragg said earlier you said you would like to hear from folks that could testify to the environmental impact like somebody mentioned the Raptor Center, but then you said you wanted to limit it lighting and those who are here. I just thought you might want to clarify that.

Mayor Aneralla said I would say have somebody from the Raptor Center or an expert in wildlife.

Ms. Beeker said just a point of clarification on wildlife, that's not a standard in your ordinance. In my opinion that's not for consideration.

Mayor Aneralla said yes, Mr. Clark.

Mr. Clark said I think a key thing here is what if we are not in compliance. Oh we will be, of course we will be, but how are we going.....what's the remedy and who's going to measure the foot-candle. A plan says it's going to be x foot candle but if it isn't who is going to measure that and who has authority to remedy that.

Mayor Aneralla said I think Mr. Priest if you want to reiterate what you said earlier.

Mr. Priest said hopefully it would not be me going out with a foot-candle measurement device. But I can if I need to. But after the permitting, assuming this is approved and assuming they come, they get a permit, and everything is approved based on the approved conditions of this plan an electrical engineer would be required to certify that the lighting that was approved was built and functioning according to the plan.

Mayor Aneralla said all those in favor. Ms. Wilson.

Sharon Wilson, Catawba Lands Conservancy, said I have a question in regards to the expert. Obviously, these engineer plans were prepared for this specific project by an engineer that was obviously hired for the purpose of providing the plan. My question is can the conservancy, if we chose to, provide our own expert witness. I guess my point is I can't speak to whether or not his is partial impartial, the lighting plan, so I think it's fair that you assess it fairly I guess is what I'm trying to say.

Ms. Beeker said so this comes down to who is a party and who isn't and who has full participation, so I don't know enough about youryou are with the Catawba Lands Conservancy unrelated to this.

Ms. Wilson said we are the grantor in the conservation.

Ms. Beeker then I think they would have standing to participate and could offer their lighting expert as well.

Mayor Aneralla called for the vote to continue to April 15.

Motion carried unanimously.

NorthChar Lot 1 Multi-building Site. NorthChar Lot 1 Multi-building site is a proposal for a multi-building site consisting of three buildings on one lot of record to accommodate 26 condominium units of flex/office space at 380 Seagle Street. The property is located at the corner of Ramah Church Road and Seagle Street.

Mayor Aneralla said this is also a quasi-judicial decision, so this hearing is a quasi-judicial evidentiary hearing. That means it's like a court hearing. State law sets specific procedures and rules concerning how this Board will make this decision. The Board's discretion is limited. The Board must base its decision upon competent, relevant and substantial evidence in the record. A quasi-judicial decision is not a popularity contest which we have heard now twice before. Does anybody have any disclosure that they would like to make at this time.

Commissioner Walsh said I have had multiple conversations with Kristen Ingram, but it won't affect my decision and I didn't know it was quasi-judicial until today.

Commissioner Hines said I had lunch with Mr. Mashburn, Mr. Broom and another individual, but it would not impact my decision.

Mayor Aneralla said and other than I just had a conversation out there, but we didn't discuss anything about this plan.

Mayor Aneralla said so having had those disclosures on the Board concerning any partiality or ex parte communications, does any member of the Board or any party to this matter have an objection to the Board members participation in this hearing.

There were no objections.

Mayor Aneralla swore in Brad Priest and Stephen Trott.

Brad Priest, Senior Planner, said I would like to enter the Staff Report into the record at this time. *Staff Report attached hereto as Exhibit No. 14.*

Commissioner Boone said I'd like to make a motion. The Town Board approves the NorthChar Industrial Park Lot 1 development plan with the following conditions:

1. The tree mitigation plan submitted by the applicant.
2. Proposed sanitary sewer easement is approved by Charlotte Water and the Town of Huntersville.
3. The lighting plan is updated in conformance with Article 8.26 of the ordinance.
4. Any remaining minor site plan review comments from staff are corrected.
5. No phasing of construction is permitted.

Commissioner Walsh seconded motion.

Motion carried unanimously.

Resolution Supporting SB297. Mayor Aneralla read into the record Resolution Supporting SB 297.

**TOWN OF HUNTERSVILLE
RESOLUTION SUPPORTING SB297**

WHEREAS, there have been multiple cases of Ocular Melanoma, a rare form of eye cancer, in the Lake Norman area; and

WHEREAS, the 2016 Session of the General Assembly appropriated \$100,000 to the Department of Health and Human Services, Division of Public Health, for the Town to study the Ocular Melanoma Cluster; and

WHEREAS, a GeoSpatial Investigation and other testing performed to date have not provided any clarity on specific associations related to the Ocular Melanoma cases; and

WHEREAS, the Town believes that Senate Bill 297, AN ACT TO DIRECT THE NORTH CAROLINA POLICY COLLABORATORY AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL TO ASSEMBLE A RESEARCH ADVISORY PANEL TO STUDY AND DEVELOP RECOMMENDATIONS ON STRATEGIES FOR IMPLEMENTATION OF A RESEARCH PROGRAM TO DETERMINE WHETHER ANY CLUSTERS OF CANCER INCIDENTS EXIST WITHIN THE STATE, hereinafter "Senate Bill 297," could provide an opportunity for further study of the multiple cases of Ocular Melanoma in the Lake Norman area, as well as any other potential cancer clusters throughout the state, by a collaborative of experts;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Town of Huntersville hereby expresses its support for Senate Bill 297, and requests that a copy of this Resolution be sent to our local legislators.

Commissioner Gibbons made a motion to adopt Resolution Supporting SB297.

Commissioner Bales seconded motion.

Motion carried unanimously.

CONSENT AGENDA

Approval of Minutes. Commissioner Walsh made a motion to approve the minutes of the March 4, 2019 Regular Town Board Meeting. Commissioner Gibbons seconded motion. Motion carried unanimously.

Approval of Minutes – March 18. Commissioner Walsh made a motion to approve the minutes of the March 18, 2019 Regular Town Board Meeting. Commissioner Gibbons seconded motion. Motion carried unanimously.

Call for Public Hearing – Petition #R19-05. Commissioner Walsh made a motion to call a public hearing from Monday, May 6, 2019 at 6:00 p.m. at Huntersville Town Hall on Petition #R19-05, a request by Fairway Birkdale II, LLC to modify a Conditional District Rezoning Plan R97-22 located at 16633 and 16639 Birkdale Commons Parkway, Parcels# 00917184 and 00917186 to reduce the western buffer yard from 80' to 40'. Commissioner Gibbons seconded motion. Motion carried unanimously.

School Speed Zone – Barnette Elementary School. Commissioner Walsh made a motion to approve Certification of Municipal Declaration to Enact Speed Limits and Request for Concurrence setting school speed zone of 35 mph on Beatties Ford Road for Barnette Elementary School. Commissioner Gibbons seconded motion. Motion carried unanimously.

School Speed Zone – Francis Bradley Middle School. Commissioner Walsh made a motion to approve Certificate of Municipal Declaration to Enact Speed Limits and Request for Concurrence to set school speed zone of 35 mph on Beatties Ford Road for Francis Bradley Middle School. Commissioner Gibbons seconded motion. Motion carried unanimously.

Engineering and Survey Contract – Vance Road Intersection/Realignment. Commissioner Walsh made a motion to approve contract for Engineering and Surveying for the Vance Road intersection/realignment project. Commissioner Gibbons seconded motion. Motion carried unanimously.

Contract attached hereto as Exhibit No. 15.

Budget Amendment – PEG Revenue. Commissioner Walsh made a motion to approve budget amendment recognizing Public Education Government Access revenue in the amount of \$7,294.11 and appropriate to the Governing Body capital outlay account for the purpose of purchasing the remainder of audio/visual equipment to produce programming for delivery on a PEG access channel and other media platforms. Commissioner Gibbons seconded motion. Motion carried unanimously.

Filing Fees. Commissioner Walsh made a motion to set filing fees for the 2019 Municipal Election at \$10 for Mayor and \$5 for Board of Commissioners. Commissioner Gibbons seconded motion. Motion carried unanimously.

CLOSING COMMENTS

None

There being no further comments, the meeting was adjourned.

Approved this the 6th day of May, 2019.