



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

Town Hall

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

The Chairman determined quorum and called the meeting to order. All members were present.

**B. Approval of Minutes**

B.1. Consider approval of Minutes

Joe Sailers made a Motion to Approve the September 25, 2018 Regular Meeting Minutes, and Catherine Graffy seconded. The vote was unanimous (9-0).

**C. Public Comments**

Item D.1. Marilyn Ainslie (12830 Ramah Church Road, Huntersville), provided a handout dated October 1, 2018, a copy of which is attached hereto as an Exhibit, and incorporated herein by reference. Mrs. Ainslie expressed her concerns with increasing the buffer, and the adjoining lots and houses should be facing Ramah Church Road, and/or moved. There is no transition. Nuisance and criminal concerns with street stub "V" attracting people to an isolated area in the neighborhood. Suggested not paving V Street, but setting aside the right of way to eliminate people parking there.

**D. Action Agenda**

D.1. **R 18-04: Walden Revision**

Hal Bankirer made a Motion to Defer for 30 days, as agreed, and Susan Thomas seconded. The vote was unanimous (9-0).

Discussion: David Peete, Principal Planner, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference. Staff presented the revisions to the rezoning. The amendment is based on the 2014 approved plan (stamped 2015). The addition of the Boovy tract is a major amendment (6.085 acres), and density is being increased by two (2) lots. Urban Open Space (UOS) and the Common Open Space (COS) are being adjusted. The owners have the ability to move forward with the last plan approved, and Phase 1 and 2 have been platted and have one (1), or more homes underway. Phases 3, 6 and 8 are areas where changes are needed. A side-by-side comparison was shown. In the prior plan the Ferrell Town Parkway thoroughfare is from Huntersville-Concord Road and goes just past Keyes Meadow Way. The rest is fully dedicated right of way with rough grading to Ramah Church Road. That portion of the thoroughfare is not to be constructed by the developer, and is not a requirement for the developer to build. J. Sailers asked about Birkdale Commons Drive and a different subdivision. Jack Simoneau, Planning Director, noted the Gilead Ridge subdivision, and J. Sailers expressed his concerns about this thoroughfare's unbuilt portion. J. Simoneau clarified the concerns with the

road in Gilead Ridge (width of the road, and parking), and noted this is not the same case. At each intersection within this subdivision a sign will be placed noting the future thoroughfare. Staff continued with his presentation noting the major revisions (adding acreage), and pocket parks have been removed while still providing UOS with the greenway along the creek (eastern edge and southern side). All lots are within a quarter mile of the greenway. They will fully build a natural service trail. Staff noted the Phases and lot reconfigurations, which only two (2) additional lots are being requested. The original approval of Walden had nearly 400 units, and this revision dropped it significantly. The initial TIA was based on the higher number. Staff recommends approval. It is compliant with the ordinance. There are three (3) property owners that staff has heard from with concerns, one of which is talking with NCDOT about their concerns. This request is for the rezoning of 219 acres, and the only conditions that can be placed on the plan are those to which the applicant agrees.

Daniel Gates (127 Ben Casey Drive, Fort Mill, "Gates"), representative of the developer informed the members they had met with the property owners that afternoon and made some compromises to the plan such as a 30' buffer along the adjoining properties in the northwest portion of the site from Ramah Church Road to Fred Brown Road. A berm will be created that is 30' from the edge of the buffer and be about 3.5' tall. Screening and landscaping will be made according to the ordinance requirements. Existing trees will be saved in the buffer. Flipping the green space and lots around Choplin Ridge Road was questioned and discussed. Gates noted they had not yet looked at it in detail, but there are grading and topo issues in that area. V Street could then be shorter, but still must make the connection. Leaving V Street gravel is not an option. Staff explained that stub streets are built as close as possible to property lines, and the developer is to provide connectivity. Discussion of moving the stub was made. Gates noted it may create engineering challenges. S. Thomas asked about the Phases, and Gates noted that Phase 1 and 2 are completed. Phase 4 construction plans are almost done. Phases 5 and 7 are halfway with a third review. It could be 2-3 years before Phase 8 completed. It was asked if the adjoining property owners had been satisfied, to which Gates replied they are satisfied with the buffer and berm. The number of homes that back up to the adjoining property owners (Ainsley) does not change. Gates showed where the lots were increased.

J. Miller questioned if the applicant can have Choplin Ridge Road area revised prior to the Town Board, and staff commented it is unlikely unless the timeline is adjusted for final action. F. Gammon questioned the street names and asked about Ferrell Town Parkway. Staff noted that Asbury Chapel extension will need to continue in a different direction, and the Parkway will replace the thoroughfare. The southbound left turn lane at driveway #2 and Asbury Chapel Road was questioned, and staff noted they will review. The block length (1700') was questioned in Phase 9, and Gates noted that the block length goes around the entire oval. C. Graffy asked for clarification for the road improvements at Asbury Chapel, and/or Ferrell Town Parkway. Staff responded that improvements are made at Huntersville-Concord Road and Ferrell Town Parkway, and there is one at Asbury Chapel Road. The note on the plan can be made clear. The improvement to the entrance of the subdivision is done and open. The improvement at Asbury Chapel will be done at Phase 6. H. Bankirer

asked if any discussions had been made with the developer to complete the thoroughfare, or at least punch through to Ramah Church Road. Staff commented that the ordinance requires that an easement or dedication is provided, or not get in the way of an adopted alignment, and the applicant can provide sections of a thoroughfare if it serves their purpose for ingress and egress, but are not required. Gates commented that the developer cannot fund the thoroughfare, but is making connectivity with Ramah Church Road through Fred Brown Road. Staff noted all the entrances for the subdivision, including three (3) into Bellington, and one (1) into Centennial. There are six (6) connections. J. Sailors noted that police and fire would have to go through neighborhoods to access the back of the site near Ramah Church, and there is only one real entrance; the thoroughfare. Gates noted that Fred Brown is a NCDOT road, and the subdivision is also accessing from this NCDOT right of way. The developer could entertain signage at that entrance point. J. Davis asked if the completion to the thoroughfare could be made at Ramah Church, and H. Bankirer commented that people living along Fred Brown Road will not appreciate the development accessing through Fred Brown Road. It was noted that Fred Brown Road is a small gravel road that is now paved.

S. Thomas asked about the development if the revision does not get approved. Shawn Callaway (623 Marvin Road, Waxhaw), is a consultant for the developer and stated he would have to check with the developer to know its position. S. Thomas asked what makes this proposal work, and Callaway responded that the BMPs being relocated is monumental. Water was being drained uphill to get into ponds. And, the addition of twelve lots. Otherwise, without the additional piece (6 acres) 10 lots have been lost. These changes were actually made by the previous developer, and the current developer is moving forward with the plan. Gates noted that the old plan showed BMPs in open spaces and in areas not buildable. A BMP needs to be near the streams, and the old BMPs were uphill, which is a big challenge and will not function properly. Callaway noted the OS shown will likely set up more BMPs. The other plan would have to come forward again, because they would not have met the UOS with the BMPs located in the COS. There would not have been usable space in the pocket parks.

J. Sailors questioned if the developer could move forward with the previously approved plan, and lose ten (10) lots. Staff commented that the 2015 plan is valid with its density caps. If BMP changes are necessary, they can do that and build less. Jack Simoneau, questioned if the concern is that the developer is not connecting to Ramah Church Road, which some members confirmed. J. Simoneau reminded the members that the law can only require reservation of a right of way. They are not only reserving it, but dedicating it. The TIA was complete with the old rezoning, and the development was approved in 2015. The change is a 30' buffer with a berm, as agreed to with the neighbors, and 10 additional lots. If turned down, the buffer will go back to 20', and 10 lots will be lost. Gates noted that the thoroughfare right of way will be graded in its entirety from a storm water standpoint. Catch basins will be installed where needed for the future road. When needed, the Town will have complete designs to use to build the road. There will be no design cost, no storm water cost to the Town. It will be strictly infrastructure. From a cost standpoint, the developer is doing a lot of legwork, which more than what is required.

F. Gammon questioned the greenway and connectors, to which Gates responded that the original path will be dirt with bridges where needed. Talks have continued with Mecklenburg County, and the trail is being proposed on the other side of the creek instead of making all the crosses and connections. It will be more accessible for the amenity area. A 5' path is being provided. With the developer doing the grading, all the County will need to do is pave the path without additional work. Staff noted that the County Park & Rec staff have been engaged with the Town and applicant for the greenway. Gates noted that the connectors will be built as pedestrian trail and bridges. Staff noted that easements dedicated (connectors) do not have to meet County standards as they are private connections. H. Bankirer asked about the crossing of another property owner's land in the northeastern portion of the site, and staff commented that small portion of greenway is part of the Ramsey's Glen development, which the easement is in its approved plan. The greenway will involve two properties and be seamless.

H. Bankirer asked about the Fred Brown entrance and if improvement will be made, to which Gates replied it could be increased landscaping and signage. Callaway noted it could be suggested to the developer. C. Graffy questioned the entrance at Ramah Church Road and Ferrell Town Parkway, and Gates commented at that time it may be up to the HOA. Staff noted the Parkway would not go further north of Ramah Church Road. S. Thomas asked how staff is protecting the residents with the new revisions, and staff commented that the developer is willing to provide a larger buffer and berm, and staff has no issue.

Hal Bankirer made a Motion (above), and expressed his concerns about Fred Brown Road, and Choplin Ridge Road and homes. A deferral will give the residents an understanding of their discussions with the applicant. A discussion of a 30 day deferral was made. Gates wanted clarification, and J. Miller requested that the berm and buffer be shown on the plans. Swanick mentioned showing the potential flipping of the lots and Choplin Ridge, if it can be engineered. Signage and landscaping at Fred Brown Road. F. Gammon questioned if a new site plan would be provided with the new greenway routing, corrected road name, and correct measurements on the block length. J. Simoneau read the ordinance to the members concerning deferrals, and recommended 30 days. The next meeting is November 27, 2018. Gates agreed to defer to the next meeting as a sign of good faith. S. Swanick commented that he supports the deferral for more information, but noted that some questions and concerns about the plan are moot at this point. The revised rezoning modifications are improvements to plan, and did not want to re-litigate old issues. No further discussion was made.

D.2. **R18-05: Bradbury Rezoning**

Joe Sailers made a Motion to Approve the berm to the maximum height required by Town staff; that additional vegetation along the thoroughfare and site view for the apartments be properly screened in accordance with Article 7.4.2., and Susan Thomas seconded. The vote was unanimous (9-0).

Joe Sailers made a Motion to Approve the conditional rezoning. It is consistent with the 2030 Plan, and other applicable long range plans. It is reasonable and in

the public interest, because of the addition of amenities, and extras that are provided by the developer and planners, and that the block length waivers be approved as recommended on the site plan. Hal Bankirer amended the Motion to include that all Traffic Impact Improvements (Town and NCDOT), are provided; all outstanding redline comments are addressed, and that the PCO-1 is provided for Mecklenburg County. Stephen Swanick included an amendment for the assisted living facility, if not approved, that it be converted to more apartments. Catherine Graffy made an inclusion to the amended Motion for the other long range plans, specifically the Clarke Creek Small Area Plan. JoAnne Miller seconded. The vote was unanimous (9-0).

Discussion: Jack Simoneau, Planning Director (“staff” and/or “Simoneau”), entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B, and incorporated herein by reference. Staff presented the rezoning giving its location, density, activity areas, mixed activity node, neighborhood services, thoroughfare location (Prosperity Church), rural area, and the buffer and conservation area. The project size, zoning, and housing unit totals were given (single family, townhomes, apartments), including that this is an age restricted development to include assisted living units, which will need State certification. The tree save and requirements are being met. The buffer along the thoroughfare is recommended. The Clarke Creek Small Area Plan (“CCSAP”) was shown. There are block length waivers requested, and staff recommends approval. The berm along with thoroughfare was shown, with notes on the plan, and staff recommends approval to provide extra buffer for the adjoining properties, and Metrolina Greenhouse. The conservation area and elevations were shown. Daniel Gates (127 Ben Casey Drive, Fort Mill), Project Manager with R. Joe Harris & Associates, spoke about the elevations and sightlines along the berm, thoroughfare and townhomes, and apartments. The berm will be landscaped per the ordinance.

S. Swanick asked if the entire development was age restricted, and about street stubs into other non-age restricted neighborhoods. Staff confirmed it is the entire development, and the communities are connected as required. J. Sailers asked about the stub into Metrolina, and Drew Bowman, with Bowman Development, noted it is a right of way reserved for future use. F. Gammon requested the definition for age restricted, and Nate Bowman, applicant, stated it is 55 and over, and will be within federal guidelines.

C. Graffy confirmed the size of the buffer at Huntersville-Concord Road being 80’. F. Gammon commented about the name of Prosperity Church Road being called “future” and “proposed”, and staff indicated this development can build a substantial portion of the thoroughfare alignment. J. Miller asked about the connection to Skybrook, and Nate Bowman responded, not in the first Phase, but ultimately it will be connected. F. Gammon asked for a timeline for the build of the road, and Nate Bowman responded, it may be every section every year and a half once a builder is in place. It is a huge project and could be 4-5 years. Mooresville, Davidson and Cornelius will study the North-South Parkway, of which this thoroughfare is a portion.

C. Graffy asked about the high density node and to define civic space. Nate

Bowman replied, the amenity/club house is the civic space. The plan notes where the commercial and amenity areas are located. It will be a quaint village center like Vermillion, with a village green and buildings around it.

F. Gammon asked if the Greenway Commission has seen the greenway and bike plans, and staff noted the plans are brought to TRC (a transportation review committee), and a staff member that is on the Greenway Commission is in that meeting. F. Gammon thought the Commission may make recommendations on the bike paths, and recommended that the plans go to Jason, the Chairman, for comment. Nate Bowman noted that Parks & Rec were at the Charrette. Staff indicated they would talk to Park & Rec staff.

R. Smith noted the engineering comments on page 9 of the Staff Report, and parallel parking, and asked for staff comments. Simoneau explained the TIA summary in the Staff Report. The single family lots over 50' wide show on-street parking, and spaces shown on the plan may not actually be there, but there is plenty of parking being provided. Nate Bowman noted there is no parking in the alleys, but parking allowed in driveways in the back. Staff explained parking in driveways along alleys. Staff stated that parking requirements are being met.

J. Sailors asked for clarification of all units, and staff replied, 627 single family lots, 300 apartments, 123 townhomes and 100 assisted living. H. Bankirer asked, assuming permission is giving for the assisted living, where those units would be located, and Nate Bowman replied, next to the apartments. If permission is not given they may become apartments. J. Simoneau commented there should be a clarification note on the plan about if the Certificate of Need is not granted. Nate Bowman stated a change in the note will be made. The 41' lots would continue if the assisted living is not granted. H. Bankirer asked when the Certificate would be applied for, and Nate Bowman indicated it is anticipated in two years. He is not a developer of assisted living facilities. A builder will be in place for the single family and/or townhome units to get the project off the ground. The apartments will be in Phase 2, and probably focus on the assisted living in Phase 3, which may be 4-5 years.

H. Bankirer noted a discrepancy in the TIA results between the Staff Report and sheet SP-2; i.e. the storage at Asbury Chapel Road being 375' in the Staff Report and the note on the plan is 150'. There were additional discrepancies, and requested clarification. J. Simoneau showed the Town and NCDOT traffic improvements (attached hereto as an Exhibit). The blue shows the Town and NCDOT requirements and the red is just a NCDOT requirement. Nate Bowman stated they would double check to be sure the plans are correct before the Town Board's final action. Staff noted the information on the Exhibit was provided by Stephen Trott, Town Engineer. Nate Bowman commented that another map was provided by S. Trott that shows other requirements by Walden, and Vermillion Village. The developers may want to start networking to do improvements at the same time. H. Bankirer asked if staff knew if the NCDOT requirements were studied in the TIA, to which J. Simoneau responded, yes. The TIA will contain both the Town and NCDOT requirements so two separate reports are not needed. Nate Bowman confirmed the state requirements were covered in his TIA. J. Simoneau noted that the improvements in red (NCDOT) are not part of the

Town's requirements.

S. Swanick asked about the phasing and if the assisting living does not come through. Nate Bowman replied, that what may happen is to build everything else out until such feasible time to finish from a market standpoint. He would not wait like in Vermillion.

H. Bankirer asked the following: the greens being maintained by the developer until the HOA takes over, to which Nate Bowman confirmed. The promenade landscaping, to which Nate Bowman described as having trees, and grass; whatever is the best use of the space. They have not gotten to that detail yet, but will meet code. There is 100 acres of open space and it is anticipated to do more hedging and landscaping like in Vermillion. H. Bankirer would like to have seen general notes in the plans about the promenades. There is a BMP on the stream, and Gates commented that is from a volume standpoint. An intermittent stream may actually be a ditch, and approval will be from the Corps of Engineers. The smaller pond has been filtering fertilizer for the farm. The BMP is located at a low point, and the drainage is going to the smaller pond. Drainage cannot go to the larger pond. H. Bankirer expressed his concerns if the BMP cannot go in that location. Gates stated they would analyze if having to shift the amenity area. Mecklenburg County has reviewed the plan and are aware of the impact for the pond. It was asked if both berms were 3' high. Nate Bowman commented they would go as high as allowed; 6', which was asked for by the neighbors. The note about lots subject to flooding was asked, and staff noted it is a standard note on every sketch plan. Section 7.280 refers to lots determined to be within floodplains, significant flooding, and flood levels. Filling and displacing water creates downstream issues, and whatever is done on lots in these areas cannot create a problem downstream. H. Bankirer was concerned about lots being in a floodplain. Side setbacks was asked for TR, and the plans shows 5'. The TND overlay standards allows 5'. Nate Bowman noted it gives more open space. There is a note on Lot 648 that shows 0 to 10' front setbacks. Gates thought that had been changed to 5'. Drew Bowman noted the lot chart shows the change. H. Bankirer noted that some BMPs appear to sit near the rear boundary on some lots. Gates commented that the BMPs are put in the low areas without disturbing more than needed. They are closer to the lots so not to be pushed closer to the creek. If further away from the lots more trees would need to be removed. Also, flat spaces are needed around the BMPs so there is not a steep hill on the lot down into a pond. H. Bankirer asked if the common space would be left natural, and Bowman noted they would try to minimize disturbance, and leave as many trees as possible. The majority of the site is not treed (farmland), and the pocket trees are wanted to be saved. Nate Bowman noted the natural places to walk that do not need to be manicured. The County prefers the open spaces left natural. There will be green areas to be mowed, from the pastures. C. Graffy noted the Staff Report states 628 and 627 single family lots, and J. Simoneau confirmed 627 units. H. Bankirer commented that the APFO states there is no impact to fire and police, and does not talk about Parks and Rec facilities. Bankirer expressed his concerns, and Simoneau noted he would talk to the staff and will be happy to clarify the numbers and impacts. Based on capacity the development can be served. Gammon questioned at what point the police and fire will need more. Thomas noted it is cumulative. Miller noted another fire station being built.

Simoneau will talk with staff about the APFO. There was no further discussion, and the Chairman called for Motions (see above).

**E. Other Business**

**F. Adjourn**

Approved this 27<sup>th</sup> day of November, 2018.

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Chairman or Vice Chairman

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Board Secretary