



**Planning Board  
Regular Planning Board Meeting Minutes  
November 27, 2018 - 6:30 PM**

**Town Hall**

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

The Chairman determined quorum and opened the meeting. All members were present.

**B. Approval of Minutes**

**B.1. Consider Approval of Minutes**

Joe Sailers made a Motion to Approve, and Catherine Graffy seconded the Motion, which carried unanimously (9-0).

**C. Public Comments**

Item D.2. Marilyn Ainslie, 12830 Ramah Church Road, Huntersville. Mrs. Ainslie had a handout for the member, a copy of which is attached hereto as Exhibit Ainslie, and incorporated herein by reference. The handout contains items sent in an e-mail to Sean Callaway with Walden, which may have already been taken care of. The requests are to increase the buffer from 30' to the maximum allowed as the road moves north from her southeast corner; evergreen plantings on the berm closer together to provide an opaque shield, which David Peete just told her that the requirements make it opaque. She wanted to be sure they would not be getting lights in their bedroom from traffic; and to plant many new evergreens in the buffer and berm and save the trees inside the cul-de-sac. She would like for V Street to be declared right of way, but not paved. It is shown as paved to the property line. They would like the curb and gutter to go along the side of the road and leave it grassed to prevent parking and litter there. It may be a temptation for people to do both. If a few of the trees can be saved on the west side of Chopin Ridge Road would be great. They would have loved a lower density, but they (developers) were gracious to flip the houses so they are not right on our property line, and that helps.

Item D.2. Antonia Berbrick, 15300 Fred Brown Road, Huntersville, will be called at the agenda item.

**D. Action Agenda**

Joe Sailers made a Motion to move TA18-07 (Term Limits) from D.4 to D.6. Ron Smith seconded and the Motion carried unanimously.

**D.1. R18-01: Northbrook**

Jack Simoneau, Planning Director, informed the Board of the withdrawal of the NR rezoning request. No Motion was required.

Discussion: Jack Simoneau, Planning Director, advised the members that this was from a continuation from a previous meeting. There is a letter in the agenda

package that they intend to file a new application. The applicant is withdrawing the NR rezoning request. The Planning Board does not have to take any action. Hal Bankirer asked if the new application submitted was for a TR zoning, which was confirmed. Jack Simoneau noted it is consistent with the zoning requirements for a TR in terms of density and lot sizes, which will be on the Planning Board agenda January 29, 2019.

**D.2. R 18-04: Walden Revision (Continued Item)**

Ron Smith made a Substitute Motion to Defer to December 18, 2018, as agreed, and Joe Sailers seconded. The Motion carried 6-3.

Opposed: Bankirer, Davis and Gammon.

Discussion:

David Peete, Principal Planning (also referred to as “staff”), entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference. Staff recapped the project by giving the changes to the plan since the last meeting. A comparison was shown with the approved 2015 plan, and the current proposed. The boundary on Phase 8 from Ramah Church Road and down has an increased buffer from 20’ to 30’. Behind the 30’ buffer the road has been realigned and the lots are backing up to the future thoroughfare as they do throughout the rest of the project. The additional 6 acres is being added, and the thoroughfare from Ramah Church Road (“Ramah Church”) to above Keyes Meadow Way will only have right of way dedication and rough grading. It will be ready to go, but not fully built. From there down to Huntersville-Concord Road is the main entrance, and is in existence today. There is an increase of only two (2) units. BMP’s have been redesigned. There is a new Common Open Space (“COS”), and a section of the greenway has been relocated in Phase 3. Phase 6 was reviewed for lots, COS, and a BMP. Phase 8 was reviewed as well. Staff noted that it does not review a plan by phase, but by the entire plan and number of units. Staff noted the Staff Report has the new sections underlined. The density is going down overall from the current approved plan. The TIA elements are on page 3 of the Staff Report, and the comprehensive plans are shown on pages 4 and 5. The proposed changes are ordinance compliant, and staff supports the changes.

The Chairman called Mrs. Berbrick to ask her questions and/or make comments. Antoni Berbrick, stated her property borders Phase 8. She is asking for several items, and then thanked staff for their help in gathering information. There are several items that have not been addressed. She requested the Board to consider an additional 30 days since there are several outstanding items have not been received by her. She stated she has been working diligently to get the information, and thought it was relevant information and that the Board should consider to make her feel more comfortable. The other incomplete issue is regarding the Traffic Impact Analysis (“TIA”), and response from NCDOT. She spoke to Doug Sossaman with NCDOT in October and he agreed it was worthwhile to revisit the site and reach out to town officials. She has yet to hear back from him, and is now on vacation. He did understand her concerns and said it would not be unreasonable for NCDOT to request an updated TIA given the lapse of time, and that he was unaware there would not be access directly from

the development unto Ramah Church. She also wants the extension because she has not received information for R07-04 that outlined the original approval for 415 units, and subsequently the number of units has decreased primarily in Phases 5 and 7. The increase in units over time have all been pushed into Phase 8, and the density is substantially tighter. There is a disparity between the lot sizes, which will translate into property values (east vs. west side of Ferrell Town Parkway). To her that does not provide consistency and transition from the new properties in Phases 6 and 8. There is no consistent transition within the development of properties. There are 60' lots that are crammed together in Phases 6 and 8, with no open space behind it. The open space was removed and new lots were added, which is a concern. She stated she is in no way trying to stop the development from proceeding, but asking for consideration to be given. Perhaps in looking at Phase 9 that some of the lots be shifted, or move some of those lots to Phases 5 and 7 to even it out more. The density in the east side of the main roadway is 1.29, whereas the density on the west side is 2.59. There is a substantial disparity. There are 204 lots on the west side, and only 173 lots on 134 acres on the east side. The density is far more favorable on the east side, and it seems like it was to accommodate the transition to the homes that were on Chopin Ridge Road, but no consideration to the TR properties on the left side in Phases 6 and 8. In addition, she talked about the lack of reference in the Staff Report to an agreement that was offered by the developer's representatives at the last meeting, to include a berm and increase in the buffer to 50', and an opaque screening in accordance with the Town requirements. They have yet to see that in writing. She suggested that the Planning Board consider including the agreement as a contingency on final approval. This is in a document that she forwarded to the Planning Board in an email, a copy of which is attached hereto as Exhibit Berbrick, and incorporated herein by reference. The other open items are a contingency upon any landscaping and lighting as beautification of an entrance on Fred Brown Road (no mention of it in the Staff Report). There would be no transition from Fred Brown Road into the development, which would clearly be a lack of consistency in transition and would likely make anybody on the original side of Fred Brown Road appear to be on the older side versus the Walden side. Her primary concern is her property value and is not to stop the development. She is looking to protect her property value by the density issue, the berm issue, and traffic safety issue. There have been many items that she has yet to receive on the TIA, and items changed between different sketches of the site plans. She has yet to get those items, and there has not been time, and she wants the opportunity to review them and compare them to the original site plan to find out when that removal of the completion and entrance way to Ramah Church was removed, and that is important. At the February 2014 meeting, the neighbors asked if there would be a connection from the development to Ramah Church, and the answer was yes. That would be a substantial change, and she wants to know if that was followed up with the neighbors, and when it was changed and why. She again asked for the extension and outlined items be considered. The Chairman noted it was not customary to have questions answered back and forth, but she can ask staff for any unanswered questions.

Ron Smith noted that V Street concerns have been addressed, and block lengths. Staff noted that V Street has been significantly diminished and has been designed to be as close to the buffer as possible. The applicant/developer should be

responsible for as much infrastructure as possible, and be stubbed to wherever is determined by the larger group to be appropriate. Stub streets are usually held back 10-15' from the property lines for grading purposes whenever future connections are made. Staff has not changed its position; wherever the stub is to be it should be provided in the means normally done. Ron Smith noted the TIA, and staff responded that the change was scoped (as all projects are) with the Engineering Department, and because the change is only 2 units it did not trip anything. There is no TIA update required by the Town. NCDOT is independent of the Town, and not part of the process. Huntersville-Concord Road, Fred Brown Road and Ramah Church Road are all State roads.

Frank Gammon noted the agreement between the applicant and resident on the buffer from the last meeting, and asked about the distance. Staff noted the current plan is a 20' buffer, which is a zoning ordinance minimum. The applicant has submitted the change to 30'. Jennifer Davis asked for the location of the buffer, which staff identified on the plan. The remainder of the perimeter would stay at a 20' buffer, and is labeled on the plan. Hal Bankirer noted that Mrs. Berbrick stated the developer committed to a 50' buffer at the last meeting. Sean Callaway with C2 Design (623 Marvin Road, Waxhaw) responded he was on site that day with Daniel Gates when meeting with Berbrick and Ainslie. What was talked about was that we would study the buffer and berm and look at the size it could be increased to, which is how it was arrived at 30'. The maximum berm height is 4'. The berm would be small with plantings on top. The required planting is per 1000 square feet. As the buffer increases in depth there is more trees planted per linear foot. The berm maximum is 6' as stated by staff. The Chairman asked if they could commit to a 6' berm with a 30' buffer. Mr. Callaway stated that for a proper berm and transition, the engineer came back with a 4.5' berm. Staff noted the berm would be planted as dictated by the ordinance. H. Bankirer asked about Mrs. Berbrick's understanding, and she responded that the original had a 70' buffer, and they indicated they couldn't do 70' but could do a 50' buffer. She believed they asked to have the highest possible berm allowable, and they said they would provide the highest possible berm to allow for appropriate draining issues. They agreed to opaque screening versus traditional plantings on the existing plan, which is substantially more plantings.

Joe Sailers commented about the thoroughfare portion not being built, and requested of the applicant to provide signage on both sides of the right of way on Ramah Church (two signs, one on each side), and above Keyes Meadow Way. The signage is for the future property owners and people coming into the development. The connection at Fred Brown Road has a bad ditch at that intersection with Ramah Church, and requested it be leveled out so it is not a problem. Sean Callaway responded that the intersection is a required improvement. The third request is to keep the circle and median instead of a cul-de-sac (in Phase 8), which will add green space and open space and will calm traffic. Mr. Sailers commented on the BMP in Phase 7, and the greenway access should be marked for use. Concerning the TIA issues, and State requirements to review the development again, he felt Mrs. Berbrick should continue to talk to Doug Sossaman with NCDOT.

Frank Gammon asked staff about block length waivers, and recommended that staff review the lengths. In example, Eola Way is listed as 476', but the block length table has Block 59 as 1,031 linear feet. Staff indicated that the Planning and Engineering and Public Works Departments looks at the tables. Originally, there were block length waivers granted due to topography. There are no waivers needed for this plan. F. Gammon noted that many of the blocks are over 800' and require a waiver, and staff responded they were covered previously. Staff noted they would look into Eola Way (Block 59).

Susan Thomas asked when the greenway would be developed, and staff indicated it would be during each phase. The developer is working with the County, and they are in Phase 2 and working on that portion of the greenway.

Catherine Graffy asked about the BMPs, and how confident are the developers with the BMP locations. Patrick Murphy with R. Joe Harris and Associates responded that as part of the design plan for the revision there is some general level of full site review to insure that everything works. There is an internal formula used to appropriate size and drainage area, and in future phases there is enough area to set aside for a particular pond. At this stage of the plan it is more general, aside from Phases 1 and 2, then during construction review. Staff commented that the lot count is capped by what the Town Board approves. If adjustments are made the unit count does not go up, but the lot count can go down if needed to expand BMP areas.

Catherine Graffy commented about the unpaved right of way (thoroughfare) and the concerns of future property owners, and asked if the HOA would be responsible for mowing and/or maintaining the right of way. Patrick Murphy commented that although not building the road, the right of way is being dedicated to NCDOT, and felt NCDOT would maintain. It could be possible to incorporate into the HOA maintenance. John Brian, with Starwood Land Advisors, LLC (6310 Capital Drive, Suite 130, Lakewood Ranch, Florida), commented that the objective would be to enter into a maintenance agreement with NCDOT for the Association to maintain in perpetuity the area as COS. The residents could utilize the space until such time as the final parkway is constructed. It will be in the backyards, and the builders will disclose in their purchase and sell documentation that it is right of way. Hal Bankirer asked Mrs. Berbrick's question about how the entire road would be paved and now it is not. David Peete stated that the Subdivision Ordinance requires at a minimum any adopted thoroughfare be dedicated. Developers do not have to improvement thoroughfare alignments unless they chose to, and it serves their purpose. All three (3) versions of this plan (2 previously approved and this one) there is a portion that the developer is providing, and this developer has already constructed a section. The remainder of the right of way has not served their purpose and they have elected not to provide that portion. Staff cannot compel construction, and through the conditional district rezoning the conditions are those that the applicant offers. H. Bankirer thought that some of the Board felt there was a process to keep the developer in completing the road to the intersection at Ramah Church. Joe Sailors asked if the connections (internal) would be made, and staff confirmed. The rough grading and crossings will be done through the unbuilt portions, as required.

Hal Bankirer noted the discussions from the last meeting about Fred Brown Road, and it was requested of the applicant to consider improvements at the subdivision. David Peete informed that signage, entry monuments, additional landscaping, etc., are not required by ordinance. If the developer wants to do so, it is typically shown at the construction level of planning. The applicant has not offered anything at Huntersville-Concord Road or Fred Brown at this planning stage. During Phases 1 and 2 there are entry monuments planned, and staff has parameters, but it is not because it is required, it is just a standard practice. H. Bankirer asked if the applicant took the Board's requests into consideration. John Brian responded there will absolutely be something, but at this point it is not known exactly what, but something that denotes the community and is consistent with the main entrance.

Hal Bankirer asked about construction traffic and Fred Brown Road. Staff recalled previous Staff Reports limiting construction traffic on Fred Brown was desired. However, it is a State road and staff was not 100% sure that traffic could be prohibited. Staff noted that the current development is at the Huntersville-Concord Road entrance. H. Bankirer was concerned about the northern phases and traffic. F. Gammon asked the condition of Fred Brown Road now, and staff could only state that it is a narrow State road. F. Gammon commented that the road will have construction traffic and asked who will repair the road, and staff replied that NCDOT faces these issues every day from developments, and they know how to handle it.

Jennifer Davis asked Mrs. Berbrick if she had her answers, and called her to the podium. Mrs. Berbrick noted that the 5-14-14 Staff Report (final report for 14-01) states there will be no construction traffic on Fred Brown Road, and that needed to be discussed with the applicant. She has continued to ask for other documents that state that has changed, and has not been provided anything. There has been a lot of construction traffic when removing dirt in Phases 1 and 2. The dirt is being taken down Hiawassee, down Ramah Church, and then down Fred Brown Road. Over the course of 6 months, there were trucks back and forth, and cranes. At 7:00 a.m. in the morning they called the Police because they are driving at high speeds to continue to move dirt all day long, and it is dangerous. As to her other questions and answers, she is still waiting for the site plans and staff reports from the original R07-04 that shows her what the layout was, and that has not yet been provided. The density in this development has substantially shifted from the east side to the west side. They can keep saying it has been approved and can keep moving forward, but at what point has it been considered that there is no consistency and transition. There are traffic issues regarding access to Fred Brown Road and the intersection issue. There is Northstone, Centennial and now Walden exiting and entering on that intersection. Site line issues have yet to be addressed. R14-01 was denied based on the TIA.

David Peete added that final action Staff Report for 14-01 (May 2014), states that the 2007 conditional district rezoning stipulated that Fred Brown not be used for construction traffic, and that was a point passed along to the Board. Staff was not sure what the Board did in 2014 with that element, but in 2007 it was part of the plan to the extent that a State road can be controlled. The 2014 Staff Report does

not state that the applicant agreed. J. Davis noted that it appears to have been requested, and given it was not in the continuous plans, it still applies. Staff noted that the Planning Board can pass along its support, or not.

Hal Bankirer commented about the 2014 plan, and has the same concerns, and felt that documentation that reflects the process that occurred then be provided for the residents and Board now. It is important to understand the conditions approved by the Town Board in 2014. The commitment with the buffer and berm is an issue. Time is needed to absorb all information for an informed decision, and it is incumbent upon the Board to provide the best thinking to the Town Board to make a decision. Stephen Swanick asked if another 30 day extension would create a hardship or financial difficulty for the developer. The 30 days could be used to iron out wrinkles and bring more people to support this. John Brian commented it did not create financial hardship. He has given directives to the guys meeting with the residents to do their best to make it work; compromise and solutions that work for everyone, and keep in mind that the site has to be engineered. If the issue is Fred Brown Road, they can commit to not using it for construction traffic. We will do our best to insure that traffic stays off that road. An additional 30 days is not going to change the plan. S. Swanick felt the concessions made were very reasonable, but now seeing other items, and the 30 days is not a hardship is a good solution. David Peete clarified the meeting date for December is moved to the 3<sup>rd</sup> Tuesday. J. Davis asked when staff would have the NCDOT report, and staff reiterated that NCDOT does not report to the Town. H. Bankirer commented that a lot of the commitments are not seen in writing, or by adjustments in the plan, or in notes on the plan. H. Bankirer suggested the January meeting to avoid a rush. Jack Simoneau read the Ordinance language to the Board concerning deferrals; i.e. 1) public hearing open (not the case), 2) ordinance required information is not complete (staff has argued completed), and 3) the applicant agrees to deferral. H. Bankirer disagreed, as there is information that has not been provided on Fred Brown Road, and Jack Simoneau noted that is not an ordinance requirement. S. Swanick asked if the applicant would agree to an extension, and John Brian noted he had no problem with that. David Peete asked for which meeting, and John Brian asked for specifics of what the Board is looking for. Joe Sailors responded, no entrances for construction on Fred Brown, notes on the plan relative to the TIA, the berm, and entrance modifications. J. Davis noted that the public has questions, and they have not been given that information. David Peete noted that the plan reflects and it is in writing what they are offering. The other commitments tonight are straight forward, but staff wanted it clarified about TIA. J. Sailors noted D. Sossaman's review. Staff questioned if they Board was holding up the Town process for a NCDOT review. Regardless of the Town's approval, if NCDOT wants x improvements, that what will happen. It is separate from the Town.

There was a discussion between staff and the members about NCDOT requirements, and that being outside and separate of Town requirements. John Brian noted that it sounds more like a labeling exercise and providing additional details, and that can be done in short order. H. Bankirer asked if the agreements with Mrs. Ainslie could be memorialized, and David Peete noted that the berm and buffer must be planted per ordinance, and the plantings can be augmented without loading it up with evergreens. Discussion of the berm height was again

made, and staff noted that they are offering a berm that is compliant. Jack Simoneau explained the slope and crown of a berm for maintenance purposes. The 30' wide buffer offer allows the maximum berm height to be 4'. A 6' berm would be too tight for maintenance and not meet the Town's requirements with a 30' buffer.

Hal Bankirer made a Motion to defer to January. Stephen Swanick seconded.

The Chairman called for discussion and Ron Smith noted there may be a few things that can be detailed, but not a lot, and his preference was to vote. S. Swanick noted they said there was no hardship in waiting. Joe Sailers suggested to move to the 18<sup>th</sup>. John Brian noted his preference is the 18<sup>th</sup> of December, and can get it done. The Chairman asked the motion maker if he wanted to amend his motion, to which he declined. Jack Simoneau clarified that the applicant is willing to defer to December 18<sup>th</sup>, but the Motion is to defer to January 29<sup>th</sup>.

Ron Smith made a substitute Motion (see above).

**D.3. R 18-11 Skybrook North - Phase 4 CD Rezoning Revision**

Frank Gammon made a Motion to Approve. In considering the proposed, the Planning Board recommends approval of removing the note prohibiting driveway access to Trailside Road for Lots 1, 2, 13 and 14 for the reasons outlined in Part 3 of the Staff Report. It is consistent with the 2030 Community Plan policy H-8, and is reasonable and in the public interest to approve the rezoning plan because it is consistent with NCDOT requirements and meets the minimum NCDOT criteria for a street stem in this location. Joe Sailers seconded, and the Motion was carried 9-0.

Discussion: David Peete, Principal Planner, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B, and incorporated herein by reference. Staff explained the request, which is to modify a condition in Phase 4, and the access to Lots 1, 2, 13 and 14. The current requirement for the shared driveways was explained. There is a change with the NCDOT requirement, which has been confirmed by the Town's Engineering Department, that the standard has been lessened. The applicant has requested the note and requirement on the plan be removed so that the lots can have independent driveways.

There were no questions, and the Chairman called for a Motion (see above). There was no discussion after the Motion.

**D.4. R18-08: Pharr Property**

Joe Sailers made a Substitute Motion to Approve Parcel B from Corporate Business-Conditional District to Corporate Business. It is consistent with the 2030 Community Plan, and the surrounding development. It is reasonable and in the public interest to approve and remove the tire plant that is existing, and it allows for additional business development. Ron Smith seconded. The Motion carried 7-2.

Opposed: Bankirer and Swanick

Discussion: Brian Richards, GIS Administrator, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference. Staff explained the general rezoning request, and the 1988 Mecklenburg County Board of Commissioners approval for Parcel B (tire recapping business), zoned I-1 CD. The annexation to the Town occurred in 1995, and in 1996 the Town zoned the parcel Corporate Business – Conditional District (CB-CD), which was the closest zoning to the 1988 County zoning. The tire recapping business is now out of business, and the request is to remove the restriction. Parcel A is not in the request and can be developed as shown on the 1988 plan. Parcel B, if the condition is removed, will allow someone to move into the existing facility and any future development of Parcel B will require compliance with the Town’s ordinance. With the current condition from 1988, the facility on Parcel B can only be a tire recapping business. The family (owners) is requesting removal of the condition to utilize the property without the limitation. Questions from the members included future development, which was explained by staff that expansion and/or demolition of the building to redevelop Parcel B the applicant then would need to bring the site into compliance with the current ordinance to the extent practicable. Staff stated that the application is consistent with the 2030 Community Plan. Staff discussed with the family of the Pharr property to rezone both parcels, but they have chosen to rezone only Parcel B.

The Chairman called for questions, and Frank Gammon noted that the concept of buildings on the 1988 plan are what might be, and staff indicated that Parcel A building will stay as is (with minor shifts), and Parcel B building is not oriented like the site plan. Staff confirmed Town requirements if the building on Parcel B under a Corporate Business (“CB”) rezoning was redeveloped in the future. The 1988 uses and the current CB uses were explained. It was noted that CMS owns the adjoining property, which would require 80’ buffer and the plan shows 50’. Staff explained if the building stays as is, the buffer can stay. If another use moves in, staff will look at what is practicable. Expansion would require sidewalks, paved driveway and parking lot, etc.

Stephen Swanick asked for the rezoning uses between Parcel A and B, to which staff explained there are some uses in the older ordinance that are not allowed (more retail in nature) in the current CB district. There are 143 uses, which is attached to the Staff Report. F. Gammon asked if this is meeting the zoning ordinance, and staff responded, yes. Redevelopment of the building on Parcel B was again discussed, and staff explained the process. J. Davis noted that according to the Staff Report there are no plans for the building, which was confirmed by staff. Staff indicated that the owners have passed on a number of opportunities for potential renters of the building and have walked away to open businesses in other cities.

Kelly Pharr (207 Ashley Drive, Davidson), applicant, addressed the Board and stated they (he and sister) do not have any plans to develop the property now, but do have interested parties. It is his father’s previous business; a truck tire retreading facility for about 20 years before he passed away. They are trying to clean up the zoning for the building. They are aware of the future potential rezoning for Parcel A, and there are no intentions to develop it now.

Joe Sailers did not have any questions for the applicant but noted his understanding for rezoning Parcel B with the existing building, and that rezoning benefits the Town, and leaving Parcel A in the old zoning.

Hal Bankirer commented that CB may not be consistent to the school next door, and questioned why remove the conditional district (“CD”). Mr. Pharr responded that Parcel B building is for only truck tire retreading, and they would like the flexibility to bring in something other than retreading. H. Bankirer asked why he thought removing CD would perfect that, and Jack Simoneau responded that the rezoning plan approved by Mecklenburg County has that the only permitted use for the building is tire retreading and is an unusual condition. Staff noted they are comfortable with the rezoning be only CB. H. Bankirer noted he may not be comfortable with it not being CB-CD since it is next to a school. Staff noted the CB uses are typically office, distribution business, light manufacturing, government buildings, warehouses, and could be a day care center.

Stephen Swanick questioned Parcel A’s zoning to which staff clarified the uses for Parcel A under the County’s 143 uses. Staff reminded the members that the request is for Parcel B to be rezoned. Staff recommended and encouraged the entire parcel be rezoned, but the applicant is offering the only the southern portion (Parcel B). Staff supports the request to rezone Parcel B. Parcel A cannot be made a condition of approval for Parcel B. Staff clarified that if the building on Parcel B was demolished and rebuilt an 80’ buffer would be required.

Sean Copeland, Attorney at Law, spoke to the Board on behalf of the owners/applicant. The family wanted to keep their father’s business running, if possible, as they had long time loyal employees, but could not do it. The property has been sitting vacant, without plans to redevelop. They are trying to make some productive use of Parcel B. He understood the concern about the adjacent school, and posed the question how the school would feel about a tire recapping plant there. There is not something waiting in the wings for this approval. There is a long list of uses, and likely some are preferable to a recapping plant. The family does not know what they want to do with the property. If the property is divided and sold, a potential purchaser may want to build Parcel A pursuant to the 1998 conditional plan, and until it is known what is going to happen with Parcel A, the applicant is focusing on doing something productive with Parcel B.

F. Gammon asked staff when it is decided on Parcel A to develop what the process would be, and staff advise it would be under the Town’s process under the 1988 plan.

There were no further questions, and Stephen Swanick made a Motion to Deny based on the preservation of the existing building and Parcel A not being vested in the Town of Huntersville. It is not reasonable or in the public interest to approve the request for Parcel B because, while on its own, he would support redevelopment and opening up the uses beyond a tire recapping facility, and it would preserve the conditions in place from 1988 on Parcel A, which are broader than existing zoning. If Parcel B rezoning is granted it should be part of a

packaged deal to bring Parcel A into current zoning so that it can be administered by the Town, or in the best interest of the Town. Hal Bankirer seconded.

Discussion after the Motion included Mr. Gammon questioning if Parcel A could be made part of the rezoning. JoAnne Miller thought that could not be legally done, since Parcel A is not being considered. Jack Simoneau noted the consistency statement and long range plans. S. Swanick stated he would argue that the prior zoning is not consistent with the Town's long range planning.

Joe Sailers made a Substitute Motion to Approve (see above). After the Substitute Motion was made and seconded, Susan Thomas asked Mr. Simoneau about the original Motion to Deny, and what opportunity would the applicant have to come back through the process with both parcels. Mr. Simoneau stated that when a rezoning request is denied the applicant will have to wait a year, but the Motion is to rezone the full property, so the zoning would change substantially and there is no wait for that since the request is not the same. J. Sailers reminded the members that the Town Board can approve the request even with the Planning Board recommended denial. It is better to get additional business development. Ron Smith noted it is best to clean up the zoning now if in the future there is some form of transaction. F. Gammon expressed his opinion in not standing in the way of business. S. Thomas commented that this is in a high density area and small business will be generated, and will support the rezoning. J. Davis will support, although understands the concerns with future development.

**D.5. R18-07: Public Works Facility Expansion**

Hal Bankirer made a Motion to Approve. It is consistent with Public Facilities policy PF-1 of the 2030 Community Plan. It is reasonable and of the public interest to approve the rezoning; and to insure that light and noise pollution is mitigated to protect the surrounding residential development. Joe Sailers seconded. The Motion carried 9-0.

Discussion: Brian Richards, GIS Administrator, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit D, and incorporated herein by reference. Staff reviewed the general rezoning for the Town Public Works facility. Early this year the Town purchased 3.52 acres for future expansion of that facility. The land is zoned Corporate Business, and Special Purpose is desired to allow for expansion of the facility and outdoor storage yard. The recorded plat shows an 80' undisturbed buffer, as required, which is also for the protection of the adjoining property owners. Staff finds it is consistent with the 2030 Community Plan, and supports the rezoning.

The Chairman called for questions, and F. Gammon noted his desire to make a Motion to approve. Hal Bankirer questioned the buffer, and staff confirmed it is undisturbed. If any trees are damaged, Public Works will replant evergreen trees. H. Bankirer asked about lights, and staff has not contemplated lights, but if lighting happens it cannot bleed out to the neighboring properties. The property will mainly be used for outdoor storage. H. Bankirer expressed his concerns for the neighbors with lights and equipment noise. Staff noted a limited operation with the exception of bad weather. C. Graffy asked about the elevation change,

and headlights could be on top of the houses. Brian Richards noted he sent out notifications to property owners, and has not heard from any neighbors.

Hal Bankirer made a Motion to Approve (see above).

**D.6. TA18-07 Planning Board and Board of Adjustment Term Limits and Service Limits**

Hal Bankirer made a Motion to Approve. In considering the proposed amendment, TA 18-07, to amend Article 11.3.1(b) and (d) and Article 11.4.2(b)(1) and(b)(3) of the Zoning Ordinance, the Planning Board recommends approval based on the amendment being consistent with good management. It is reasonable and in the public interest to amend the Zoning Ordinance because of the expertise in utilizing the 2030 Community Plan. Stephen Swanick seconded The Motion carried 9-0.

Discussion: Sierra Saumenig, Planner I, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit E, and incorporated herein by reference. Staff explained the Text Amendment (“TA”) which provides term limits with 2 consecutive three (3) year full terms. Filling an unexpired term does not count as a full term. There is also a waiver provision for the Town Board to have discretion. Staff recommends approval as presented based on the TA being consistent with the 2030 Community Plan.

The Chairman called for questions, and Stephen Swanick wanted to poll the members. He requested the Board Secretary to identify the terms of each current member, and she stated the following: Hal Bankirer filled an unexpired term in August 2009, Catherine Graffy began July 2016, Stephen Swanick filled an unexpired term in July 2015, Joe Sailers began June 2008, Jennifer Davis filled an unexpired term in February 2016, Frank Gammon began July 2018, Ron Smith began July 2016, Susan Thomas filled an unexpired term in April 2015, and JoAnne Miller has been with the Planning Board since August 2000 as an ETJ member. S. Swanick stated he would abstain from voting, and was reminded that the members must vote unless there is a conflict of interest.

Joe Sailers commented that they are at the discretion of the Town Board, and the TA is from the Town Board. He recommended to not make term limits, because, in his opinion, the limits are installed by the job done on the Board. If a good job is not done, and attendance is not regular, the Town Board can decide. F. Gammon asked staff about voting on the TA, and Jack Simoneau replied that the Town has already adopted this policy, and the policy should apply to all Boards; Planning Board, Board of Adjustment, Greenway, etc. The vote would be on the TA that is consistent with the adopted policy of the Town Board. Ron Smith noted this conversation started a year ago, and at that time Planning staff looked at the surrounding communities. Jack Simoneau noted that H. Bankirer precipitated establishing term limits last proposed, but it was turned down by the Town Board. The term limits at that time were different than now. S. Swanick stated he is not against term limits but couldn't imagine the Board without Hal and JoAnne (long term members), and two (2) terms is too short. F. Gammon noted the terms are the same as the Greenway Commission bylaws. The

Chairman asked Mr. Bankirer to speak to the subject. Hal Bankirer commented that he did initiate this before, and the reasoning was two prong; 1) need to give additional citizens the opportunity to serve, and 2) it takes a considerable amount of time to learn the ordinance, understand the process, and be able to conduct a good efficient meeting. That does not happen overnight. With his 45 years of leadership roles he used his experience to guide the Board. His proposal was three (3) terms, but not more than 11 years if filling an unexpired term. Mr. Bankirer felt this is too short a period of time, and gave the example of the Chairman and Vice Chairman's term and role. He will support the TA, but felt the Town Board should know of the concerns. J. Davis commented about her concerns, and the TA allows the Town Board to make a judgement call if there are only a few people on the Board that is capable of leading. Two (2) term limits is enough, but wished it was longer for the Planning Board. She will support the TA in hopes that the Town Board will look at the positions when up for renewal. Joe Sailers questioned if three (3) terms could be requested, and Jack Simoneau informed that the Board can recommend denial of the TA and suggest three 3 year terms. More discussion took place about the term limits, past membership, and removal of past members. R. Smith noted his support, however, two (2) terms is short based on the planning horizon of developments being seen through. Three terms would be better. F. Gammon noted that all members are replaceable, and the members are not the decision makers but the recommenders. Hal Bankirer made a Motion to Approve (see above).

After the Motion, Susan Thomas commented that longevity can be consistency, but the potential is for new ideas, new passion and focus by adding or changing the thought process. The TA will balance with the importance of skill sets needed.

A Motion outside of the text amendment matter was made by Hal Bankirer to provide concerns with the Town Board that, at least for the leadership of the Board, two (2) terms is insufficient to develop an effective Planning Board Chairman and Vice Chairman; and, that consideration should be given to extending the terms of at least the Chairman and Vice Chairman, if not all other members to three (3) terms, and that the Town Board consider this as they review of Planning Board operations. Joe Sailers seconded. The Motion carried 7-2. Opposing: JoAnne Miller and Susan Thomas

**E. Other Business**

**F. Adjourn**

Approved this 18<sup>th</sup> day of December, 2018.

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Chairman or Vice Chairman

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Board Secretary