



**Board of Commissioners Meeting
February 10, 2015
PD Community Room
6:30 PM**

- I. **COMMENCEMENT**
 - A. Call to Order
 - B. Ceremonial Opening
 - C. Adoption of Agenda
- II. **PUBLIC COMMENTS**
- III. **CONSENT AGENDA**
 - A. Approval of Minutes and Seal Closed Session
 - 1) October 17, 2014 Work Session
 - 2) December 9, 2014 Regular Session
 - 3) January 7, 2015 Special & Closed Session
 - 4) January 13, 2015 Closed Session
 - B. Approval of Written Decision Granting Conditional Use Permit for Angela Berger on behalf of Kid's Pit Stop
 - C. Approval of Written Decision Granting Amendment to Conditional Use Permit of Tommy Holevas on behalf of Waxhaw Professional Park, LLC
 - D. Approval of Interim Town Manager Mahar Terminating Agreement with Creech & Associates
 - E. Approval of Spring Clean-Up Date for 2015
 - F. Approval of Remote Lighting System for Nesbit Park
 - G. Approval of Town Board Rules of Procedure
 - H. Approval of Nesbit Park Erosion Repair
- IV. **RECOGNITIONS & REPORTS**
 - A. Mayor's Report
 - B. Commissioner's Report
 - C. Town Manager's Report
- V. **PUBLIC HEARING**
 - A. Annexation of 18.5 Acres owned by the Town of Waxhaw
Presenter: [Chaplin Spencer](#)
 - B. Initial Zoning of 18.5 Acres owned by the Town of Waxhaw
Request by the Town of Waxhaw Planning & Community Development, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3
Presenter: [Chris Rice](#)

C. Subdivision Variance for Kensington Drive

Request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations

Presenter: [Lori Oakley](#)

D. Petition TA-003036-2014

Request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts

Presenter: [Maxx Oliver](#)

E. Petition RZ-003035-2014

Request by Neil Gimon, on behalf of Bill & Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street

Presenter: [Chris Rice](#)

VI. **NEW BUSINESS**

A. Presentation & Discussion of Insurance Renewal by Wells Fargo

Presenter: [Peter White & Scott Anderson](#)

B. Discussion & Possible Action of Annexation of 18.5 Acres

Presenter: [Chaplin Spencer](#)

C. Discussion & Possible Action of Initial Zoning of 18.5 Acres

Request by the Town of Waxhaw Planning & Community Development, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3

Presenter: [Chris Rice](#)

D. Discussion & Possible Action of Subdivision Variance for Kensington Drive

Request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations

Presenter: [Lori Oakley](#)

E. Discussion & Possible Action on the Petition for Acceptance of Kensington Drive as a Town Road, including waiver of the Town's Policy for Street Improvements and Maintenance

Presenter: [Lori Oakley](#)

F. Discussion & Possible Action of Kensington Drive Speed Limit

Presenter: [Greg Mahar](#)

VII. **CLOSED SESSION**

A. Personnel, contractual matters and to seek legal counsel per G. S. 143.318.11: Personnel, Contractual Matters and Real Estate

VIII. **ADJOURNMENT**

To speak concerning an item on the Agenda, please print your name and address on the signup sheet on the counter prior to the meeting. Each speaker will be limited to 3 minutes.

PLEASE SILENCE YOUR CELL PHONES WHILE MEETING IS IN PROGRESS

TOWN OF WAXHAW, NORTH CAROLINA
WRITTEN DECISION GRANTING CONDITIONAL USE PERMIT APPLICATION

This matter came before the Waxhaw Board of Commissioners for a quasi-judicial hearing on January 13, 2015 with a decision on January 27, 2015 regarding the Conditional Use Permit Application of Angela Berger on behalf of Kid's Pit Stop, Inc. ("Applicant") to allow a daycare. The Board of Commissioners, based upon the sworn testimony and evidence received at the public hearing, makes the following findings and conclusions.

FINDINGS OF FACT

1. Applicant submitted a Conditional Use permit application with the Town of Waxhaw for tax parcel number 06-168-015B seeking a permit to allow operation of a daycare. Based on a review of the documents presented and testimony from Town Planning Staff, we find the application is complete.
2. The Subject Property consists of a vacant single family residence located at 4710 Waxhaw Marvin Road in the Town of Waxhaw, North Carolina.
3. As set forth in the Permit Application, the Subject Property is zoned R3 (Single Family Residential). Single family residential zoning surrounds the Subject Property with both residences and vacant lots.
4. The UDO requires a conditional use permit for daycare centers in the R3 zoning district. The current use of the Subject Property is a vacant house. The proposed use is to operate a commercial daycare for not more than thirty (30) children.
5. The public hearing was properly noticed in accordance with all applicable laws and regulations governing the noticing requirements for both the January 13, 2015 hearing. At the beginning of the hearing and prior to presentation of any evidence on the Permit Application, the Town Board and everyone at the hearing was informed that the hearing would be a quasi-judicial proceeding with sworn testimony from which the Board of Commissioners will make a decision similar to a court of law. Every person that presented evidence at the public hearing was properly sworn-in. The requirements for conducting a quasi judicial hearing were met and complied with.
6. Paragraph 14.6 of the Waxhaw Unified Development Ordinance ("UDO") establishes standards for issuance of a conditional use permit which include:
 - a. That the use requested is among those listed as an eligible Conditional Use in the District which the subject property is located or is to be located;
 - b. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;
 - c. That the Conditional Use meets all required conditions and specifications; and
 - d. That the locations and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs.

7. Town Staff gave a favorable recommendation on the Permit Application based on the plans consisting of Sheets 1-5 of the Conditional Use Permit Plan dated December 16, 2014 prepared by Lash Engineering (collectively, the “Plans”) with four additional conditions as set forth in its Staff Report dated January 13, 2015 and submitted into evidence at the hearing. The Waxhaw Planning Board voted 6-0 to recommend approval of the Permit.

8. The proposed daycare use is an allowable use in the R3 Zoning District subject to supplemental regulations set forth in the UDO and the granting of a conditional use permit.

9. The Applicant presented sworn testimony and/or exhibits through Angela Berger regarding the proposed plans. In accordance with the proposed plans, the existing home would increase from 3,819 square feet to 4,064 square feet with a new paved driveway and parking with eleven (11) required spots. There would be outside play areas for the children with fencing surrounding this area.

10. Persons living in the vicinity of the Subject Property testified in support of the daycare regarding the need for this service and enhancement to the area with the property improvements. There was some concern raised regarding the high volume of traffic in this area and NCDOT permit requirements.

CONCLUSIONS

Having heard and reviewed the evidence presented at the hearing, and having made the above referenced findings of fact, the Board Concludes as follows:

1. By a unanimous vote that the requested daycare use is among those listed or allowed as an eligible Conditional Use in the R3 zoning district which the Subject Property is located or is to be located, thus the Town Board made this finding per Paragraph 6(a) in the affirmative;

2. By a vote three to two that the Conditional Use as a daycare for the Subject Property will not materially endanger the public health or safety if located where proposed and developed according to the Plans as proposed, thus the Town Board did make this finding per Paragraph 6(b) in the affirmative;

3. By unanimous vote that the Conditional Use of the Subject Property meets all required conditions and specifications, thus the Town Board made this finding per Paragraph 6(c) in the affirmative; and

4. By a unanimous vote that the location and character of the Conditional Use if developed according to the Plans as proposed, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs, thus the Town Board made this finding per Paragraph 6(d) in the affirmative.

Based on the foregoing, by a unanimous vote that the Conditional Use Permit submitted by the Applicant is approved for construction in substantial compliance with the Plans and the additional conditions as follows:

1. The daycare must be licensed and approved for daycare operations by the State of North Carolina or its agencies.
2. Hours of operation are limited to 8:00AM to 8:00 PM Monday through Thursday, Friday 8:00 AM to 9:00 PM, Saturday 10:00 AM to 9:00 PM and Sunday 1:00 PM to 8:00 PM.
3. The maximum capacity for the daycare is thirty (30) children, subject to approval from the State of North Carolina and the Town's building inspector.
4. The maximum square footage for the daycare is 4,064 square feet, including the proposed addition.
5. The Applicant must secure any further easements required to encompass the area required for any portion of the septic system that encroaches, or may encroach onto the adjacent property. All easements will need to be acquired prior to review for zoning and building permit purposes.

Therefore, based on the foregoing, it is ordered that the Conditional Use Permit is hereby approved.

Date: _____

Daune Gardner, Mayor

ATTEST:

Melody Shuler, Town Clerk

TOWN OF WAXHAW, NORTH CAROLINA

WRITTEN DECISION APPROVING CONDITIONAL USE PERMIT AMENDMENT

This matter came before the Waxhaw Board of Commissioners for a quasi judicial hearing on January 13, 2015 with a decision on January 27, 2015 regarding the Conditional Use Permit Amendment for Phase 4 of Waxhaw Park Shopping Center by Tommy Holevas on behalf of Waxhaw Professional Park, LLC (“Applicant”). The Board of Commissioners, based upon the sworn testimony and evidence received at the public hearing, makes the following findings and conclusions.

FINDINGS OF FACT

1. Applicant, as owner, submitted a conditional use permit amendment application with the Town of Waxhaw for the Subject Property (as defined below) seeking an amendment to the existing Conditional Use Permit to change the eleven small buildings on the approved Conditional Use Permit Plan to four larger buildings. Based on a review of the documents presented and testimony from Town Planning Staff, we find the application is complete.
2. The Subject Property is Phase 4 and being a portion of Tax Parcel ID number 06-141-007 located at 101 Waxhaw Professional Park Drive in Waxhaw, North Carolina.
3. The Subject Property is zoned CU-C3 (Conditional Use-General Commercial), which requires a conditional use permit. Adjoining properties are: to the North Camberly single-family residential subdivision zoned CU-R4 (Conditional Use-Single Family Residential); to the South Ace Hardware retail store zoned CU-C3; to the East Providence Farms single-family residential subdivision zoned R-1; and to the West retail buildings with various businesses zoned CU-C3.
4. The original Conditional Use Permit was approved in April 2007 with Phases 2 and 3 approved administratively in August 22, 2008 and October 27, 2008 respectively. The Phase 3 amendment was approved in error and should have gone before the Board of Commissioner as the original Conditional Use Permit provided that buildings could not be combined or enlarged without Board of Commissioner approval.
5. Applicant seeks an amendment to its existing Conditional Use Permit. Applicant seeks to amend the plans to change the eleven small buildings on the approved Conditional Use Permit Plan to four larger buildings as set forth on the plans prepared by Richard L. Modlin, PE, Civil Engineer and dated 12-1-14. Section 14.11 of the UDO requires that material changes to an existing conditional use permit be subject to the same considerations and process as an original conditional use permit application. Applicant has gone through the entire conditional use permit process.
6. The public hearing was properly noticed in accordance with all applicable laws and regulations governing the noticing requirements for public hearings. At the beginning of the hearing and prior to presentation of any evidence on the Application, the Town Board and everyone at the hearing was informed that the hearing would be a quasi-judicial proceeding with sworn testimony from which the Board of Commissioners will make a decision similar to a court

of law. Every person that presented evidence at the public hearing was properly sworn-in. The requirements for conducting a quasi judicial hearing were met and complied with.

7. Paragraph 14.6 of the Waxhaw Unified Development Ordinance (“UDO”) establishes standards for issuance of a conditional use permit which include:

- a. That the use requested is among those listed as an eligible Conditional Use in the District which the subject property is located or is to be located;
- b. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;
- c. That the Conditional Use meets all required conditions and specifications; and
- d. That the locations and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs.

8. The existing Conditional Use Permit has an approved Master Site Plan. The proposed plans will modify the site plan by combining buildings and making associated changes to the site layout.

9. Town Planning Staff gave a favorable recommendation as set forth in its Staff Report dated January 13, 2015 and submitted into evidence at the hearing. The Waxhaw Planning Board voted unanimously to recommend approval of the amendment provided that the church use was not allowed.

10. The Applicant presented sworn testimony and/or exhibits in support of granting the amendment to the Conditional Use Permit. The Applicant stated that the church use was no longer being requested. He stated that larger buildings would be more similar to the other large buildings in the development.

11. No one spoke in opposition to granting the amendment to the Conditional Use Permit. However, residents in the neighborhood requested sufficient buffering from their residential properties.

CONCLUSIONS

Having heard and reviewed the evidence presented at the hearing, and having made the above referenced findings of fact, the Board Concludes as follows:

1. By a unanimous vote that the use as a larger commercial buildings as an eligible Conditional Use in the CU-C3 zoning district which the Subject Property is located or is to be located, thus the Town Board made this finding per Paragraph 7(a) in the affirmative;

2. By a unanimous vote that the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed, thus the Town Board did make this finding per Paragraph 7(b) in the affirmative;

3. By unanimous vote that the Conditional Use meets all required conditions and specifications, thus the Town Board made this finding per Paragraph 7(c) in the affirmative; and

4. By a unanimous vote that the location and character of the Conditional Use, if built according to the plan as proposed, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs, thus the Town Board did make this finding per Paragraph 7(d) in the affirmative.

Based on the foregoing, by a unanimous vote that the amendment to the Conditional Use Permit submitted by the Applicant is approved to be constructed in accordance with the plans and provided that church use is not allowed.

No other terms and conditions of the Conditional Use Permit are modified or changed and shall remain in full force and effect.

Therefore, based on the foregoing, it is ordered that the Amendment to the Conditional Use Permit is hereby approved.

Date: _____

Daune Gardner, Mayor

ATTEST:

Melody Shuler, Town Clerk



Termination of Agreement with Creech & Associates

The Town entered into an agreement with Creech & Associates, PLLC on January 24, 2012 for architectural services for a town hall that may include a police station. As you know, the Town moved forward with a separate police station and suspended the plans for construction of a new town hall. The request is to allow Interim Town Manager Mahar to properly and formally terminate the agreement.



Town of Waxhaw 2015 Spring Clean-Up Day

Wednesday, April 1, 2015

All items must be at curbside by 7:00 AM on Wednesday, April 1st!!
Routes will vary so all items must be out by the curb by this time.
Once your street has been picked up, no return trips will be made—

NO EXCEPTIONS WILL BE MADE!!

Items that will be picked up

- White Goods (Appliances)
- Furniture
- Televisions
- General Household Items

Items that WILL NOT be picked up

- Yard Waste
- Motors, Batteries and Car Parts
- Oil
- Paint
- Hazardous Chemicals
- Tires—NO Tires will be picked up this clean-up!**

Please do not place your roll-out container or regular household garbage out during these days.

IT WILL NOT BE PICKED UP!!

Your roll-out cart is for regular Friday services ONLY!

Questions???

Please call the Public Services Dept. at 704-843-7439.

Office Hours are Monday-Friday 7AM until 4 PM.

Thank you in advance for your cooperation!!

Happy Cleaning!!

****Reminder****

Please remember that the items listed above for pick-up will be picked up **one time only** during this Spring Clean-up event.



TOWN OF WAXHAW

P.O. Box 6
3620 Providence Rd South Waxhaw, N.C 28173
Telephone (704) 843-2195 Fax (704) 843-2196
www.waxhaw.com

Hours: Monday-Friday 8:00 a.m. to 5:00 p.m.

MAYOR

DAUNE GARDNER

TOWN COMMISSIONERS

MICHAEL STEWART (MAYOR PRO TEM)

PAUL FITZGERALD

JOHN HUNT

STEVE MAHER

JAMES WARNER

INTERIM TOWN MANAGER

GREG MAHAR

TOWN CLERK

MELODY SHULER

February 2, 2015

Madam Mayor and Town Commissioners,

As planning for the facilitation of parks unfolds, I have identified a need to control lighting at Nesbit Park, remotely. Over the past several months, I have been working with the Waxhaw Athletic Association (WAA) to define our working relationship, moving forward. During this process, we have developed mechanisms to facilitate use of Nesbit fields by non-WAA members. Such mechanisms include third party usage registration procedures and forms as well as greater communication on field availability. We have made a lot of progress!

Due to the fact that Waxhaw will be taking a more definitive role in facilitating the rental of sports fields than in years past, the need for the Waxhaw Parks & Recreation Department to control ball field lighting exists. Currently, lighting is controlled on-site, requiring a physical person to access a control panel via key. Keys are extremely limited and not easily duplicated. WAA coaches are familiar with the panel however, there will be an increase of non-WAA members needing to turn lights on and off. I am uncomfortable, from a safety stand-point, with having citizens access control panels without staff on-site. The alternative would be to send a staff member to the park when needs arise, however, this creates a costly inefficiency and degrades our ability to deliver great customer service.

The ability to control lighting via smartphone, computer, tablet and key pad would eliminate labor costs associated with sending a staff member to facilitate lighting on various days and at various times. As the department grows, this would be a factor. Remote lighting would also increase our ability to save energy and ensure that lights are not left on in a manner that becomes a nuisance to residents of Millbridge.

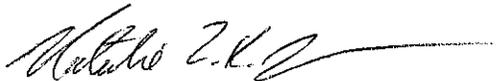
Camp Electric, in partnership with Torrence Lighting, installed the ball field lighting at Nesbit Park. At the time of installation, the Town did not elect to include

a remote lighting system as part of the package. Since that time, the Town of Waxhaw has established a Parks & Recreation Department that is taking a greater role in park facilitation. The need for the system is now.

Beyond information, the purpose of this memorandum is to seek approval for the installation of a remote lighting system at Nesbit Park. My recommendation is to work with the original installers, Camp Electric and Torrence Lighting, to ensure the system works perfectly with existing hardware. The turn-key cost of this project is estimated at \$10,734.00. I did explore other companies for this endeavor however, some did not want to bid since they did not personally install the lights. For the sake of safety and the guarantee of a good result, I recommend working with the original installation team. Given that we are over the authorized threshold of \$6,000 for our Town Manager's approval, I seek your approval to expend funds to include a cushion of approximately \$1,500. Please see the attached document for further details regarding this project.

Thank you for your consideration!

Sincerely,



Natalie L.K. Jackson
Director of Parks & Recreation



239 US 64 Highway - PO Box 1454 Rutherfordton NC 28139
Office (828) 287-7971 - Fax (828) 287-2668

Date: January 22, 2015

Project Name: HC Nesbit Park-Wireless Remote Control Bid
Jobsite Location: 8701 Kensington Drive
Waxhaw, NC 28173

Proposal Company: Town of Waxhaw
Ms. Natalie Jackson, Parks and Recreation Director

From: Jason Camp, Vice President
Camp Electrical Company NC Electrical License Number: 6864-U

Contract price to provide and install a turnkey project for Wireless Remote Control. Please note Camp Electric Company supplied and installed all of the sports lighting and panel structure at the site.

Price includes:

8 Zone Skylogix Wireless Remote Control Unit Including Automated Remote Control System, Web Access Scheduling, Smart Phone Features, Web Reporting Use Tracking, Vandal Resistant Metallic Keypad, Remote Control Station Scheduling Software, One Time Commissioning /Start-Up, and One Year of Annual Support and Wireless Service.

Please note the wireless remote control unit system is compatible with the sports lighting system installed at the park.

North Carolina Sales Tax Included in Price

It would take 2-3 weeks to receive the material from the manufacturer and then 1-2 days to complete full installation.

Total: \$10,734.00

Thank you,
Jason Camp

TOWN OF WAXHAW

RULES OF PROCEDURE

Preamble

THESE RULES OF PROCEDURE were designed for use by the Waxhaw Board of Commissioners based upon A. Fleming Bell, II: *Suggested Rules of Procedure for a City Council, 3d ed., 2000*. They incorporate general principles of parliamentary procedure and applicable North Carolina laws. Essentially the rules are a modified version of *Robert's Rules of Order Newly Revised* (hereinafter referred to as *RONR*). However, *RONR* is intended primarily to guide the deliberations of large legislative bodies; its detailed rules are not always appropriate for a small governing board.

The Board of Commissioners including the Mayor (hereafter referred to as the Board) in developing, approving and following these rules and procedures agree that they will recognize and following with these principles in mind:

1. The Board must act as a body.
2. The Board will recognize and respect the public trust and will represent the Town in an ethical manner for both public and private matters.
3. The Board will communicate with each other, the public and staff in a civil manner.
4. The Board will respect and follow the rule of law. No one elected officials can represent the entire Board without the Board's express consent.
5. The Board should proceed in the most efficient manner possible notwithstanding the inherent need to allow time for appropriate input.
6. The Board must act by at least a majority.
7. Every member must have an equal opportunity to participate in decision making.
8. The Board's rules of procedure must be followed consistently.
9. The Board's actions should be the result of a decision on the merits and not a manipulation of the procedural rules.

Many of the rules suggested here reflect the provisions of the North Carolina city council meeting procedure statutes, Chapter 160A, Article 5, Parts 1–3, of the North Carolina General Statutes (hereinafter G.S.) (G.S. 160A-68 to -81) and the North Carolina open meetings law, G.S. Chapter 143, Article 33C (G.S. 143-318.9 to 143-318.18).

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Rules of Procedure

Rule 1. Regular Meetings

The Board shall meet at least monthly for the purposes of conducting town business. At its first December meeting the Board shall adopt a meeting schedule for the upcoming year. The Board may revise this schedule as appropriate. Contained in the meeting schedule will be the date, time and location of the meetings. A copy of the Board's current meeting schedule shall be filed with the Town Clerk.

Rule 2. Special, Emergency, and Recessed Meetings

(a) Special Meetings. The Mayor, the Mayor Pro Tem, or any two members of the Board may at any time call a special board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. Special meetings include formal meetings with an established agenda along with work sessions, committee meetings, retreats, or other informal meetings of the Board. At least forty-eight hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) delivered to the Mayor and each board member or left at his or her usual dwelling place; (2) posted on the Board's principal bulletin board, or if none, at the door of the Board's usual meeting location; and (3) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the Town Clerk. As used in these Rules, delivery shall include email or facsimile. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. Even in such a case, the Board shall only discuss or transact items of business not specified in the notice if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

A special meeting may also be called or scheduled by vote of the Board in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its date, time, place, and purpose. At least forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the Board's principal bulletin board, or if none, at the door of the Board's usual meeting location; and (2) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the Town Clerk. Such notice shall also be mailed or delivered at least forty-eight hours before the meeting to each board member not present at the meeting at which the special meeting was called or scheduled and to the Mayor if he or she was not present at that meeting. Only those items of business specified in the notice may be discussed or transacted at a special meeting called in this manner.

(b) Emergency Meetings. Emergency meetings of the Board may be called only because of generally unexpected circumstances that require immediate consideration by the Board. Only business connected with the emergency may be considered at an emergency meeting. One of the following two procedures must be followed to call an emergency meeting of the Board.

(1) The Mayor, the Mayor Pro Tem, or any two members of the Board may at any time call an emergency board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each board member or left at his or her usual dwelling place at least six hours before the meeting.

(2) An emergency meeting may be held at any time when the Mayor and all members of the

Board are present and consent thereto, or when those not present have signed a written waiver of notice, but only in either case if the Board complies with the notice provisions of the next paragraph.

Notice of an emergency meeting under (1) or (2) shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request, which includes the newspaper's, wire service's, or station's telephone number, with the Town Clerk. This notice shall be given either by telephone or by the same method used to notify the Mayor and the Board members and shall be given at the expense of the party notified.

(c) Recessed Meetings. A properly called regular, special, or emergency meeting may be recessed or adjourned to a time and place certain by a procedural motion made and adopted as provided in Rule 18, Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of a recessed or adjourned session of a properly called regular, special, or emergency meeting. However, the rules regarding topics of discussion and Board action carry forward to the reconvened sessions.

Rule 3. Organizational Meeting

On the date and at the time of the first regular meeting in December following a general election in which board members are elected, unless an earlier date is set by the incumbent Board, the newly elected members shall take and subscribe the oath of office as the first order of new business. As the second order of new business, the Board shall elect a Mayor Pro Tem. This organizational meeting shall not be held before the municipal election results are officially determined, certified, and published in accordance with Subchapter IX of Chapter 163 of the North Carolina General Statutes.

If the Organizational Meeting is held on the first regular meeting in December, prior to qualifying newly elected members, the outgoing Board may resolve old business ready for action.

Comment: The Board may also make appointments at this meeting for various *ex officio* positions to be held by Board members in a representative capacity for the Town. The timing of these appointments may depend on the number of newly elected Board members and their familiarity with the various positions and interests.

Rule 4. Agenda

(a) Preparation and Dissemination of Proposed Agenda for Regular Meetings

1. The Town Manager in conjunction with the Town Clerk and the designated Town Board member shall prepare the proposed agenda for each meeting based upon information submitted at least eight (8) days prior to the regular meeting. Documents associated with a particular meeting (staff reports, minutes, maps, etc.)

must be submitted electronically in a format determined by the Town staff to the Town Manager's Office by 5:00 p.m. at least seven (7) days prior to the scheduled meeting.

2. Staff: All staff initiated items (including items from Town boards) must be approved by the department director in order to be placed on a Board agenda. The Town Manager or designee specifies each item for consent agenda or discussion.
3. Town Board Members:
 - a. Board Member Reports. Board members serve as liaisons to various organizations. Any Board member who wants to provide a report about a program in which he/she has participated should advise the Town Clerk to add this to the agenda. It is the requesting Board member's responsibility to prepare a concise report and provide this report to the Town Clerk by the agenda deadline. At the meeting the presider will ask the Board member who prepared the report if there is any new information to add that is not in the report. The Board will have an opportunity to ask questions about the report. No action/vote is necessary to accept, receive or approve the report.
 - b. Board Member Initiated Agenda Items: The Board values initiatives and ideas from its members and also respects the time and resources required by staff in preparing staff reports. To balance these objectives, Board member initiated requests will be handled in the following manner.
 - i. The Board member making the request will email the Town Clerk with details about the requested agenda item. Staff will assist the Town Clerk in determining the appropriate agenda on which to place this request.
 - ii. There will not be a staff report/recommendation at the meeting when this item first appears on the agenda. The Board member who made the request will verbally explain the request.
 - iii. At the meeting when the item first appears on the agenda, the Board may take one of the following actions:
 1. Discuss the issue and take action at the meeting if no information is required from staff and if Board does not seek public input,
 2. Refer the request to a future Board meeting, at which time a staff report with staff recommendation will be prepared, or
 3. Decide *not* to pursue the Board initiated request.
4. Entities that are affiliated with the Town, those which the Town pays membership dues, or those with which we have a regional partnership (such as the Union County Public School System, other Union County municipalities, Economic Development Commission, etc.):
 - a. Reports: The purpose of outside reports being on an agenda is to advise the Board of activities. If these entities request to make reports to the Board, they will work with the Town Clerk, who will identify the appropriate Board meeting. The entity will provide an electronic report in a format specified by

Staff, including an executive summary in time to meet the agenda deadline. At the meeting the presider will ask the organization's representative if there is any new information to add that is not in the report. The Board will have an opportunity to ask questions about the report. No action/vote is necessary to accept, receive or approve the report.

- b. Action Items: If the entity affiliated with the Town requests Board action then they will work with the Town Clerk, who will determine the appropriate agenda on which to include the request. The entity representative will be responsible for providing necessary documentation by the deadline and presenting at the meeting.
5. Other persons or entities requesting agenda items are governed by Rule 5(a).
 6. The Clerk will email the final draft agenda to the Board members prior to placing it on the Website.
 7. The Clerk will post the final agenda including all associated reports, with the exception of draft minutes to be approved, on the Website by 5 p.m. on Wednesday, the week before the meeting. No further changes will be made to the agenda once it has been posted on the Website.
 8. Draft minutes to be approved on a Town Board agenda will be emailed to Board members and staff the Friday prior to the Board meeting at which they are scheduled to be approved. Board members and staff will provide the Clerk any suggested changes to these minutes by the following Monday at 5 p.m. The clerk will post these draft minutes with any proposed changes prior to the Board meeting and will link them to the Board meeting agenda. The Board will approve with any additional changes at the meeting.
 9. Items may come up after the agenda is posted to the Website, an applicant may want to remove an item from a particular agenda, and an agenda item may no longer be necessary. Any item that falls into these categories will be communicated to the Town Clerk, who will show it at the end of the Website agenda as possible "addendum" to the Board meeting agenda; the associated staff report and information will be linked to the item if time permits prior to the meeting. If time does not permit, then a written or verbal report will be provided to the Board at the meeting. The Board will consider modifying the agenda to include these "addendum" items at the beginning of the meeting when they adopt the agenda.

(b) Preparation and Dissemination for Special, Recessed and Emergency Meetings

1. Special Meetings

These meetings are typically scheduled when items arise that would normally go to a regular Board meeting, but due to timing issues, a meeting needs to be scheduled to conduct this business before the next scheduled regular meeting. The public notice for a special meeting may serve as the agenda. The Board may not add items to the agenda of a special meeting. It is not necessary for the Board to officially adopt the agenda.

Work sessions and retreats are special meetings that are recognized to be more informal and they allow the Town Board to spend time on one or more

issues in an informal setting to discuss them in more detail. The Town Manager or designee prepares work session and retreat agendas. It is not necessary for the Board to officially adopt the agenda. The public notice for these meetings may serve as the agenda.

2. Recessed Meetings
Agendas from the recessed meeting will be provided for the reconvened session.
3. Emergency Meetings
Emergency meetings are limited to the express purpose for which the meeting was called. It is not necessary for the Board to officially adopt the agenda. The public notice for an emergency meeting may serve as the agenda.

(c) **Adoption of Agenda at Regular Meetings.** As its first order of business at each regular meeting, the Board shall discuss any proposed revisions to the agenda and adopt an agenda for the meeting. The Board may by majority vote add items that have come up since the agenda was posted to the Website, delete items from the agenda for which action is no longer required, or defer items to a future meeting.

(d) **Consent Agenda at Regular Meetings.** The Board may designate a part of the regular meeting agenda as the “Consent Agenda.” Items shall be placed on the consent agenda by those preparing the proposed agenda if they are believed to be non-controversial and routine. Any Board member may remove an item from the consent agenda and place it on the regular agenda for discussion. All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the motion and vote on each item.

(e) **Open Meetings Requirements.** The Board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number, or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the Board to understand what is being deliberated, voted, or acted on. The Board may, however, deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda are sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on are available for public inspection at the meeting.

Rule 5. Public Address to the Board

(a) Any individual or group who wishes to address the Board (not including the public comment section below) shall make a request to be on the agenda to the Town Clerk a minimum of ten calendar days before the meeting. However, the Board shall determine at the meeting whether it will hear the individual or group.

(b) At least one time per month, the Board will provide a period for public comment. Any individual or group wishing to make a comment under the Board’s public comments section may do so without making a request through the Town Clerk. Speakers are limited to three (3)

minutes or less and the entire public comment portion of the agenda is limited to fifteen (15) minutes unless waived by a majority vote of the Board. The Board does not take action on public comment but they may refer the matter to Staff for follow up.

(c) The Board may also allow public comment on specific agenda items.

(d) All comments should be civil in nature and speak to the issue at hand. Speakers should address their comments to the Board and not the audience. The Board may impose reasonable restrictions on public comments including time restrictions and designated spokespersons for groups having similar positions.

(e) Speakers will provide contact information to the Town Clerk prior to speaking and clearly state their names. Speakers may provide ten (10) copies of any handout materials to the Clerk for distribution to the Board and for the public record.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business and rules for each agenda topic for each regular meeting follow. By general consent of the Board, items may be considered out of order.

A. Commencement

1. Call to Order - The presider will always begin the meeting at the appointed time with a quorum present.
2. Ceremonial Opening (pledge, moment of silence etc.)
3. Adoption of Agenda

B. Public Comments

C. Consent Agenda

D. Recognitions and Reports: Recognitions shall include recognition of staff or the public for special accomplishments or achievements and presentation of proclamations that are requested to be presented at a Board meeting. Staff recognitions shall be recommended by the department director and approved by the Town Manager or designee. The Town Clerk shall schedule proclamation presentations at Board meetings as requested.

E. Public Hearings

F. Discussion Items. Any issue that does not qualify for consent will be placed on the discussion items (old business and new business) portion of the agenda. Any item pulled from the consent agenda will be discussed during this part of the meeting unless the Town Board directs to discuss it at another time during the meeting.

G. Closed Session

J. Adjournment

Rule 7. Mayor to Preside over Meetings

The Mayor shall preside at all meetings of the Board but shall vote only in the case of a tie. In order to address the Board, a member must be recognized by the Mayor and the Mayor shall insure that all Board members have equal opportunity to be heard.

The Mayor or other presiding officer shall have the following powers:

- (a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- (b) To determine whether a speaker has gone beyond the Board agreed time limits and/or reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other Board members on this ground;
- (c) To entertain and answer questions of parliamentary law or procedure;
- (d) To insure that meetings proceed in an orderly and time efficient manner;
- (e) To call a brief recess at any time;
- (f) To adjourn in an emergency.

A decision by the presiding officer under (a), (b), or (c) may be appealed to the Board upon motion of any member, pursuant to Rule 18(b), Motion 1. Such a motion is in order immediately after a decision under (a), (b), or (c) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order.

Rule 8. Mayor Pro Tempore

At the organizational meeting, the Board shall elect from among its members a Mayor Pro Tem to serve at the Board's pleasure. A board member who serves as Mayor Pro Tem shall be entitled to vote on all matters and shall be considered a board member for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Board may confer on the Mayor Pro Tem any of the Mayor's powers and duties. If the Mayor should become physically or mentally unable to perform the duties of his or her office, the Board may by unanimous vote declare that the Mayor is incapacitated and confer any of the Mayor's powers and duties on the Mayor Pro Tem. When a mayor declares that he or she is no longer incapacitated, and a majority of the Board concurs, the Mayor shall resume the exercise of his or her powers and duties. If both the Mayor and Mayor Pro Tem are absent from a meeting, the Board may elect from among its members a temporary chairman to preside at the meeting.

Rule 9. When the Presiding Officer Is in Active Debate

If the Mayor, Mayor Pro Tem or other presiding officer becomes actively engaged in debate on a particular proposal, he or she may designate another board member to preside over the debate. The Mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

Comment: Good leadership depends, to a certain extent, on not taking sides during a debate but insuring that a fair process occurs in which all members of the Board have a part in its discussion and decision. This rule is designed to insure even-handed treatment to both sides during a debate.

Rule 10. Action by the Board

The Board shall proceed by motion, except as otherwise provided for in Rule 31. Any member may make a motion except for the Mayor. General discussion of the agenda item may precede the making of a motion.

Comment: This rule is consistent with Board practice of discussion prior to a motion and is different than standard parliamentary practice where a motion must be on the floor before a board may proceed with discussion or action. Rule 31 specifies that the Board is to make appointments using an election method, rather than by motion, in order to allow all board members to express their preferences. This method applies both to internal board appointments and to appointments to other bodies. Traditionally, if a nonvoting mayor wishes to have a motion made, instead of making it personally, he or she states, "The Chair will entertain a motion that . . ."

Rule 11. Second Not Required

A motion shall not require a second.

Rule 12. One Motion at a Time

A member may make only one motion at a time. If a second or alternative motion is offered, the Board must consider and resolve the original motion first.

Rule 13. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Comment: This rule sets forth the basic principle of parliamentary procedure that distinct issues will be considered and dealt with one at a time, and a new proposal may not be put

forth until action on the preceding one has been concluded. The term *substantive motion* is used here to underscore the distinction between this type of motion and the various procedural motions listed in Rule 18. Basically, a substantive motion is any motion other than the procedural motions listed in Rule 18.

Rule 14. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 27 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Comment: In a few instances, these rules and North Carolina law requires a vote equal to two-thirds of the entire membership of the Board for adoption of a particular motion.

Rule 15. Voting by Written Ballot

The Board may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the Board shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the Town Clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed. Votes shall be done at the meeting and in public.

Rule 16. Debate

The Mayor or presiding officer shall state the motion and then open the floor to debate on it. The Mayor or presiding officer shall preside over the debate according to the following general principles:

- (a) The maker of the motion is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- (c) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Rule 17. Ratification of Actions

To the extent permitted by law, the Board may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Rule 18. Procedural Motions

(a) Certain Motions Allowed. In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

Comment:

Procedural motions are frequently used to “act upon” a substantive motion by amending it, delaying consideration of it, and so forth. They are in order while substantive motions are pending as well as at other times. In addition, as in *RONR*, several procedural motions can be entertained in succession without necessarily disposing of the previous procedural motion. The order of priority establishes which procedural motion yields to which—that is, which procedural motion may be made and considered while another one is pending. The procedural motions are summarized in table form in the appendix. Note that the appended table is intended only to provide a quick reference guide to the motions; this rule and its comments should be consulted for a discussion of how each procedural motion is used.

(b) Order of Priority of Motions. In order of priority (if applicable), the procedural motions are:

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the Board, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn. This motion may be made only at the conclusion of the Board’s consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess or adjourn to a time and place certain shall also comply with the requirements of Rule 2(c).

Comment: This motion differs from the *RONR* motion to adjourn in several respects. The *RONR* motion to adjourn is not debatable or amendable and can be made at any time, thus interrupting substantive deliberations. Here, however, since the number of members is small and procedures are available to limit debate, Motion 2 allows both debate and amendment, but specifies that the motion is in order only when consideration of a pending matter has concluded.

If the Board wants to adjourn before completing final action on a matter, it must, prior to adjourning, first temporarily conclude its consideration of that matter. This is done with one of three motions: to defer consideration of the matter, to postpone the matter to a certain time or day, or to refer the matter to a committee. Only as a last resort should the Board use a motion to suspend the rules, in order to allow the motion to adjourn to

interrupt deliberation on the matter. Another adjournment option is to recess or adjourn the meeting to reconvene at a specified time and place, in accord with Rule 2(c).

Motion 3. To Take a Brief Recess.

Comment: This motion, which allows the Board to pause briefly in its proceedings. To avoid confusing this motion with the motion “to recess to a time and place certain,” which is a form of the motion to adjourn under these rules and in North Carolina practice [see Rule 18(b), Motion 2 above]. Under these rules, the Mayor also has the power to call a brief recess at any time [see Rule 7(d)].

Motion 4. Call to Follow the Agenda. The motion must be made at the first reasonable opportunity, or the right to make it is waived for the out-of-order item in question.

Motion 5. To Suspend the Rules. The Board may not suspend provisions of the rules that state requirements imposed by law on the Board. For adoption, the motion requires a vote equal to two-thirds of the actual membership of the Board, excluding the Mayor and vacant seats.

Motion 6. To Go into Closed Session.

Comment: The requirements for this motion are found in Rule 26 and the comments thereto.

Motion 7. To Leave Closed Session.

Comment: The requirements for this motion are found in Rule 26.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Defer Consideration. The Board may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires one hundred (100) calendar days thereafter (or if specified, the time set forth in the motion) unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending (has not expired). A member who wishes to revisit the matter during that time must take action to revive consideration of the original motion [Rule 18(b), Motion 14], or else move to suspend the rules [Rule 18(b), Motion 5].

Comment: This motion allows the Board temporarily to defer consideration of a proposal. A motion that has been deferred dies if it is not taken up by the Board (via a motion to revive consideration, Rule 18(b), Motion 14) within a specified number of days of the vote to defer consideration. Note the restriction on making a new motion with the same effect while a motion remains deferred.

This motion should be distinguished from the motion to postpone to a certain time or day (Rule 18, Motion 11). A matter that has been postponed to a certain time or day is brought up again automatically when that time arrives. Board action (approval of a motion to revive consideration) is required, however, before the Board may again consider a substantive motion of which the consideration has been deferred under this motion.

Motion 10. Motion to Call for the Vote. The motion is not in order until there having been at least 10 minutes of debate, and/or every member has had an opportunity to speak once.

Motion 11. To Postpone to a Certain Time or Day. If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A member who wishes to revisit the matter must either wait until the specified time, or move to suspend the rules [Rule 18(b), Motion 5].

Comment: This motion allows the Board to postpone consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy. It should be distinguished from the motion to defer consideration (see *Comment* to Rule 18(b), Motion 9). Note the restriction on making a new motion with the same effect while a postponed motion remains pending.

Motion 12. To Refer a Motion to a Committee or Staff. The Board may vote to refer a substantive motion to a committee or staff for its study and recommendations. Forty-five (45) days after a substantive motion has been referred to a committee or staff (unless another specific time is set forth in the motion), the introducer of the substantive motion may compel consideration of the measure by the entire Board, whether or not the committee or staff has reported the matter to the Board.

Motion 13. To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.

Comment: The restriction on amendments stated in part 13, second sentence, of the provisions concerning this motion should be read narrowly; it is intended only to prevent an amendment that merely negates the provisions of the original motion. The intent of such an amendment can be achieved in a simpler and more straightforward manner by the defeat of the original proposal. Pertinent amendments that make major substantive changes in the original motion are quite proper.

The person making the original motion need not approve of any proposed amendments to that motion. . If the person making the motion does not favor a proposed amendment, he or she is free to vote against it. And so long as the original motion has not been voted on, the introducer is free under these rules to withdraw it (see Rule 20). If a motion has been withdrawn, the Board members are generally free to make their own separate

motions on the same subject.

Motion 14. To Revive Consideration. The Board may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 9 of Rule 18(b). The motion is in order at any time after the day of a vote to defer consideration.

Comment: This motion replaces the motion “to take up from the table” in *RONR* and was renamed in order to avoid confusion but may be debated and amended, whereas the motion in *RONR* may not. If the motion to revive consideration is not successful within the specified number of days of the date on which consideration was deferred, the substantive motion expires. Its subject matter may be brought forward again by a new motion.

Motion 15. To Reconsider. The Board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority side except in the case of a tie; in that case the "nos" prevail) and at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting.

Comment: If a member wishes to reverse an action taken at a previous meeting, he or she may generally make a new motion having the opposite effect of the prior action. Note that in some cases reversal may not be possible; for example, where rights have vested because of the original vote, or where a binding contract has already been signed in reliance on that decision. The motion to reconsider is permitted under these rules only when action on a pending matter concludes.

Motion 16. To Rescind or Repeal. The Board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Comment: Each meeting of a board is in many respects a separate legal event. Unless prohibited by law, a board may at a subsequent meeting “undo” action taken at a previous meeting.

The motion to rescind is in order only for those measures adopted by the Board that can legally be repealed or rescinded. It is not intended to suggest that the Board may unilaterally rescind a binding contract, or may repeal an action where a person’s rights have already vested.

Motion 17. To Prevent Reintroduction for Six Months. The motion shall be in order immediately following the defeat and at no other time. The motion requires for adoption a vote equal to two-thirds of the actual membership of the Board excluding the Mayor and vacant seats. If adopted, the restriction imposed by the motion remains in effect for six months or until the next organizational meeting of the Board, whichever occurs first.

Rule 19. Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reintroduction has been adopted.

Comment: Matters that are disposed of at one meeting may be brought up again at a subsequent meeting through a new motion, unless a motion to prevent reintroduction was previously adopted [Rule 18(b), Motion 17]. This motion is in order only for those measures adopted by the Board that can legally be repealed or rescinded.

Rule 20. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before the presiding officer puts the motion to a vote.

Rule 21. Duty to Vote

Every member must vote unless excused by the remaining members according to law. A member who wishes to be excused from voting shall so inform the presiding officer, who shall take a vote of the remaining members. No member shall be excused from voting except upon matters involving the consideration of his or her own financial interest (as defined in North Carolina General Statutes or the Town of Waxhaw's Code of Ethics), official conduct, or in a quasi-judicial matter is voting would violate an affected person's constitutional rights to an impartial decision maker. In all other cases, a failure to vote by a member who is physically present in the Board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 22. Introduction of Ordinances

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the Board.

Comment: G.S. 160A-75 provides that an ordinance may not be finally adopted at the meeting at which it is introduced except by a two-thirds vote of all the actual membership of the Board, excluding vacant seats and not including the Mayor unless he or she has the right to vote on all questions before the Board. The statute also specifies that an ordinance is deemed to be introduced "on the date the subject matter is first voted on by the Board." A "vote on the subject matter" is any vote pertaining to the ordinance's subject matter (for example, a vote to refer the subject of an ordinance to a committee for further study) is sufficient to satisfy the definition.

Rule 23. Adoption of Ordinances and Approval of Contracts

(a) Generally. An affirmative vote equal to a majority of all the members of the Board not excused from voting on the question in issue (including the Mayor's vote in case of an equal division) shall be required to adopt an ordinance, to take any action that has the effect of an ordinance, or to make, ratify, or authorize any contract on behalf of the town. In addition, no ordinance or action that has the effect of an ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of all the actual membership of the Board, excluding vacant seats, and not including the Mayor. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

Comment: In certain circumstances, voting requirements are superseded by the more specific provisions (see G.S. 159-17 for budget requirements detailed in Rule 24 and G.S. 160A-76(a) for requirements for franchises, including the requirement of adoption of franchise ordinances at two regular meetings).

b) Zoning Protest Petitions. An affirmative vote equal to three-fourths of all the members of the Board shall be required for an ordinance making a change in a zoning regulation, restriction, or boundary to become effective, if a valid protest petition is received in accordance with the requirements set out in G.S. 160A-385(a) and G.S. 160A-386. This rule shall not apply in those cases excepted by G.S. 160A-385(a).

Rule 24. Adoption of the Budget Ordinance

Notwithstanding the provisions of any town charter, general law, or local act:

- (1) Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the Board by a simple majority of those present and voting, a quorum being present;
- (2) No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the Board; and
- (3) The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any town charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the Board and ending with the adoption of the budget ordinance, the Board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as (a) each member of the Board has actual notice of each special meeting called for the purpose of considering the budget, and (b) no business other than consideration of the budget is taken up. This rule does not allow, and may not be construed to allow, the holding of closed meetings or executive sessions by the Board if it is otherwise prohibited by law from holding such a meeting or session.

Comment: This rule is G.S. 159-17 with minor modifications. Since the notice requirements of the Open Meeting Law continue to apply to meetings held to work on the budget ordinance, the only practical effect of the second paragraph of this rule is to eliminate the need for any special notification of board members concerning such meetings. Many boards find it useful procedurally when working on the budget simply to recess or adjourn a single meeting several times until they have finished their work [see Rule 2(c)].

Rule 25. Electronic Participation at Meetings

Board members are allowed to participate electronically at a meeting that has a quorum physically present. Electronic participation is not allowed solely for the convenience of the member or to avoid attending the meeting. Members may only participate electronically three (3) times in any six-month period unless an affirmative vote of two-thirds allows additional electronic participation at a specific meeting. Members unable to physically attend the meeting but wishing to participate electronically should notify the Town Manager and Town Clerk at least a week in advance of the regular scheduled meeting and as soon as practical upon receipt of a special called meeting notice to facilitate any communication equipment. Notwithstanding the foregoing, board members participating electronically must use simultaneous/synchronous communication and are not allowed to (i) participate without audio (which prohibits e-mail, text messaging or similar means); or (ii) participate in a quasi-judicial hearing. In addition, electronic participation in a closed session shall only be allowed when the member participating electronically confirms he or she is alone and can hear and be heard by all the other members.

Rule 26. Closed Sessions

The Board may hold closed sessions as provided by law. The Board shall only commence a closed session after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. If the motion is based on G.S. 143-318.11(a)(1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record), it must also state the name or citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on G.S. 143-318.11(a)(3) (consultation with attorney; handling or settlement of claims, judicial actions, or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session. Closed session discussions must be treated with confidentiality to protect and not frustrate the purpose of the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The Board shall terminate the closed session by a majority vote.

Only those actions authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order during a closed session.

Comment: The requirements for this motion are found in G.S. 143-318.11(c). They

include extra requirements for motions based on G.S. 143-318.11(a)(1), and for those motions based on G.S. 143-318.11(a)(3) that concern a closed session where the Board expects to receive advice about an existing lawsuit or lawsuits. G.S. 143-318.11(a)(1), cited in the rule, allows closed sessions “[t]o prevent the disclosure of information that is privileged or confidential pursuant to the law of [North Carolina] or the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.” Part of G.S. 143-318.11(a)(3), also cited, allows the Board in closed session to “consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure.”

Rule 27. Quorum

A majority of the actual membership of the Board plus the Mayor, excluding vacant seats, shall constitute a quorum. A majority is more than half. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present. Board members should notify the Town Clerk or Town Manager as soon as possible when they know that they cannot be present.

Comment: This is G.S. 160A-74, with the addition of the usual definition of “majority.” Note that the Mayor is counted for quorum purposes regardless of whether he or she has the right to vote on all questions. A quorum is four members of the current Board with no vacancies. All votes by an unexcused member shall be considered as an affirmative vote even though the member is no longer present at the meeting.

Rule 28. Public Hearings

Rules regarding the public hearing may be approved by the Board by a majority vote which should occur no later than the beginning of the public hearing. The rules may include, but are not limited to, rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and (d) providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to board meetings shall also apply to public hearings at which a majority of the Board is present; such a hearing is considered to be part of a regular or special meeting of the Board. These requirements also apply to hearings conducted by appointed or elected committees of the Board, if a majority of the committee is present. A public hearing for which any notices required by the open meetings law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 2(c) shall be followed in continuing a hearing at

which a majority of the Board is present.

The Board delegates to town staff members, as appropriate, the authority to schedule, call, and give notice of public hearings required by law. Town staff should facilitate the scheduling of zoning and related matters.

At the time appointed for the hearing, the Mayor or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall entertain or make a motion to end the hearing.

Rule 29. Quorum at Public Hearings

A quorum of the Board shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular board meeting without further advertisement.

Comment: G.S. 160A-81 implies that a quorum of board members is necessary for a public hearing by providing that a hearing shall be deferred to the next regular meeting if a quorum is not present at the originally scheduled time. If, however, the Board decided to hold a public hearing that was not required by state law to gather a consensus of public opinion on an issue, it could hold the hearing at several sites, with a few members in attendance at each place. Such a hearing would not be subject to the quorum requirement of G.S. 160A-81. Note also that if a majority of the Board was not present at such a hearing, it would not be subject to the notice, continuation, and other requirements of the open meetings law, unless the Board members conducting the hearing were a majority of an appointed or elected board committee (see Rule 32).

Rule 30. Minutes

Full and accurate minutes of the Board proceedings, including closed sessions, shall be kept. The Board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the Board, the “ayes” and “nos” upon any question shall be taken. Members’ and other persons’ comments may be included in the minutes.

Minutes and general accounts of closed sessions shall be sealed upon approval by the Board unless otherwise directed by the Board. Such sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

Rule 31. Committees and Boards

(a) Establishment and Appointment. The Board may establish and appoint members for such temporary and standing town committees and boards as are needed to help carry on the

work of town government. Any specific provisions of law relating to particular committees and boards shall be followed.

(b) Open Meetings Law. The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of the town that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law's requirements shall not apply to a meeting solely among the town's professional staff.

Comment: The town board is authorized by G.S. 160A-146 to "create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the city government . . ." subject to certain limitations. Rule 32(b) states requirements of G.S. 143-318.10(b) and (c) (parts of the open meetings law). In determining if a group is covered by the open meetings law, whether the group is called a commission, authority, or committee is generally not important, nor does it matter who within the town government established the group.

Rule 32. Appointments

(a). **Generally.** The Board may consider and make appointments to other bodies, including its own committees, if any, only in open session. The Town Clerk shall publicly advertise vacancies upon receipt of a resignation or completion of term and will notify the Board and Town Manager of such vacancies.

The Mayor shall not have a right to vote on appointments that come before the Board, except to break a tie vote. Rather than proceeding by motion, the Board shall use the following procedure to make appointments to various other boards and offices. The clerk or any appointment committee of the Board shall report on nominations received and reviewed, and make its appointment recommendations, if any. Only persons submitting applications may be considered by the Board. The applicants submitted shall be debated. When the debate ends, the Mayor shall call the roll of the members, and each member shall cast his or her vote, which may be done by ballot.

The nominee(s) receiving the highest number of votes shall be appointed. If more than one appointee is to be selected, then each member shall have as many votes as there are slots to be filled. A member must cast all of his or her votes and cast them for different nominees.

The voting shall continue until one nominee receives a majority of the votes cast, whereupon he or she shall be appointed. If more than one appointee is to be selected, then each member shall have as many votes in each balloting as there are slots to be filled, and votes from a majority of the members voting shall be required for appointment. During each balloting, a member may cast all of his or her votes or fewer than all of them, but he or she shall not cast more than one vote for a single candidate. Unless otherwise decided by the Board, votes shall be by written ballot in accordance with Rule 15.

(b). **Vacancy of the Board.** The Board may not consider or fill a vacancy among its own membership except in open session. A vacancy among the Board should be filled by the Board within sixty (60) days after the vacancy occurs by acceptance or acknowledgment of such

resignation or vacancy. Subject to the provisions of N.C.G.S. § 160A-63, the process will be as follows:

1. Town Clerk to Advertise and Compile Applications. Disqualified candidates (i.e., non-residents) will be disqualified with the candidate notified of the reason.
2. After debate and discussion, the Board will select two candidates by ballot from a list of qualified applicants. In the event of a tie between more than two candidates, the Board will make a subsequent selection from a list of the candidates tied with highest number of votes.
3. The two candidates receiving the highest number of votes will be interviewed by the Board in open session. The two candidates may make personal statements of no more than five minutes at the beginning of the interview.
4. After debate and discussion, the Board will vote on the candidate to be appointed to the vacant seat.

Comment: The procedure outlined uses nominations, rather than a motion and vote for each individual candidate. A nomination procedure allows all board members an opportunity both to propose and to vote for their preferred candidates. The Board may also require the appointment committee to submit a slate containing as many nominees as there are vacancies to be filled on a particular board. Each board member then votes for or against the slate as presented. A separate procedure is established for a vacancy among the Board to allow a more comprehensive process. An appointment is not necessary for any board or commission that has designated appointments in the organizational documents.

Rule 33. Amendment of the Rules

These rules may be amended at any properly called meeting that includes amendment of the rules as one of the stated purposes of the meeting, so long as the amendment is consistent with the town charter, general law, and generally accepted principles of parliamentary procedure. Adoption of an amendment shall require an affirmative vote equal to or greater than two-thirds of all the actual membership of the Board, excluding vacant seats, and not including the Mayor.

Rule 34. References

To the extent not provided for in these rules, and to the extent it does not conflict with North Carolina law or with the spirit of these rules, the Board shall refer to the comments of A. Fleming Bell, II: *Suggested Rules of Procedure for a City Council*, 3d ed., 2000 and *Robert's Rules of Order Newly Revised*, to answer unresolved procedural questions.

Appendix

Permitted Procedural Motions in Order of Precedence¹

| Motion | Vote Required² | Special Requirements |
|--|----------------------------------|---|
| 1. To Appeal a Procedural Ruling of the Presiding Officer | Majority | Is in order immediately after the presiding officer announces a procedural ruling, as specified in Rule 7, and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order. |
| 2. To Adjourn | Majority | May not interrupt deliberation of pending substantive matter. Motion to [recess] [adjourn] to a time and place certain must also comply with Rule 2(c). |
| 3. To Take a Brief Recess | Majority | None |
| 4. Call to Follow the Agenda | Majority | Must be made at first reasonable opportunity, or the right to make it is waived for the out-of-order item in question. |
| 5. To Suspend the Rules | Two-Thirds | The Board may not suspend provisions of the rules that state requirements imposed by law on the Board. |
| 6. To Go into Closed Session | Majority | Motion must cite one or more of the permissible purposes for closed sessions listed in G.S. 143-318.11(a) and must be adopted at an open meeting. |
| 7. To Leave Closed Session | | Majority |
| 8. To Divide a Complex Motion and Consider it by Paragraph | Majority | None |
| 9. To Defer Consideration | Majority | A substantive motion the consideration of which has been deferred expires <u>100</u> days thereafter unless a motion to revive consideration (Motion 14) is adopted. While a |

deferred motion remains pending, a new motion with the same effect cannot be introduced.

CAUTION: Do not confuse with Motion 11.

| | | |
|---|------------|---|
| 10. Motion for the Previous Question | Majority | Not in order until there have been at least <u>10</u> minutes of debate, and every member has had an opportunity to speak once. |
| 11. To Postpone to a Certain Time or Day | Majority | None. While a postponed motion remains pending, a new motion with the same effect cannot be introduced. CAUTION: Do not confuse with Motion 9. |
| 12. To Refer a Motion to a Committee | Majority | <u>60</u> days or more after a motion is referred to a committee, the introducer may compel consideration of the measure by the Board, regardless of whether the committee has reported the matter to the Board. |
| 13. To Amend | Majority | (a) Amendments must be pertinent to the subject matter of the motion being amended. An amendment is improper if adoption of the motion with that amendment added has the same effect as rejection of the original motion. A proposal to substitute a different motion shall be treated as a motion to amend. (b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote. (c) |
| 14. To Revive Consideration | Majority | In order at any time within <u>100</u> days after the day of a vote to defer consideration (Motion 9). Failure to adopt Motion 14 within the <u>100</u> day period results in expiration of the deferred substantive motion. |
| 15. To Reconsider | Majority | Must be made by a member who voted with the prevailing side (the majority side except in the case of a tie; in that case the “nos” prevail). May only be made at the meeting at which the original vote was taken, including any continuation of that meeting through [recess] [adjournment] to a time and place certain. Cannot interrupt deliberation on a pending matter, but is in order at any time before final adjournment of the meeting. |
| 16. To Rescind or Repeal | Majority | Not in order if rescission or repeal of an action is forbidden by law. |
| 17. To Prevent Reintroduction for [<u>Six</u>] Months | Two-Thirds | In order immediately following defeat of a substantive motion and at no other time. If adopted, the restriction imposed by the motion remains in effect for [<u>six</u>] months |

or until the next organizational meeting of the Board, whichever occurs first.

1. Under these rules all procedural motions are debatable and none requires a second. All may be amended, subject to the stated limitations on motions to amend (Motion 13). Except where indicated otherwise procedural motions may interrupt deliberations on a pending substantive matter.

2. The required vote for adoption of a procedural motion is generally a majority of the votes cast, a quorum being present. In a few cases, the required vote is a vote equal to two-thirds of the actual membership of the Board, excluding the Mayor, unless he or she may vote in all cases, and vacant seats.



TOWN OF WAXHAW

P.O. Box 6
3620 Providence Rd South Waxhaw, N.C 28173
Telephone (704) 843-2195 Fax (704) 843-2196
www.waxhaw.com

Hours: Monday-Friday 8:00 a.m. to 5:00 p.m.

DAUNE GARDNER

TOWN COMMISSIONERS

MICHAEL STEWART (MAYOR PRO TEM)
PAUL FITZGERALD
JOHN HUNT
STEVE MAHER
JAMES WARNER

INTERIM TOWN MANAGER

GREG MAHAR

TOWN CLERK

MELODY SHULER

February 2, 2015

Madam Mayor and Town Commissioners,

Nesbit Park has existing erosion and drainage issues that can pose a safety risk for park users. The erosion is approximately three feet deep, holds standing water and sits between our soccer fields and Millbridge housing. Soccer balls frequently roll into this area with children following close behind. Temporary measures have been taken, in the past, to increase safety however, erosion is getting worse. In its current condition, another temporary fix is not in the best interest of safety as well as the long-term usage of adjacent fields.

After having completed a spend plan for the remainder of this fiscal year, I am confident that Waxhaw's Parks & Recreation budget can accommodate the significant cost of this repair. The Public Services Director and I have obtained three bids from local grading companies. Gregger's Grading, LLC was selected as our recommendation to complete this repair. We are happy to report that Gregger's Grading has offered to donate 100 loads of dirt for this project. This generous donation is valued at \$16,000. Some of this donation can also be used for green space repair at Town Creek Park.

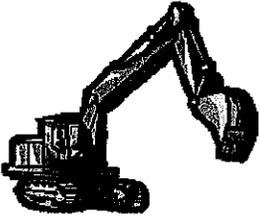
The scope of work for the Nesbit Park erosion repair project includes the installation of three catch basins, removal of five loads of tree debris, 220' of 48" metal pipe, 180' of 60" metal pipe, 20 loads of pipe bedding, 260 dump truck loads of dirt, 12 rolls of straw matting, 30 bales of straw and 200 pounds of grass seed. As you can see, this endeavor is significant.

This memorandum serves as a request to approve the expenditure of \$75,605.00, as quoted, to complete this significant project. An additional cushion would also be appreciated. Below is a breakdown of the budget line items and estimated dollar amounts that will act as a funding source for the repair project. A cushion is built in. Thanks for your consideration.

| | | |
|------------|------------------------|-------------|
| 12-570-670 | Park Expenses | \$18,135.38 |
| 14-570-621 | Nesbit Park | \$50,000 |
| 14-570-622 | David G. Barnes/Horton | \$9,000 |
| Total: | | \$77,135.38 |

Sincerely,

Natalie L.K. Jackson
Director of Parks & Recreation



Gregger's Grading, LLC

704-309-2874 - Mobile
5310 Cane Creek Rd
Waxhaw, NC 28173

Estimate

| Date | Estimate# |
|-----------|-----------|
| 1/20/2015 | 2289 |

To

Job Location

Town of Waxhaw
PO Box 6
Waxhaw, NC 28173

Nesbit Ball Field

| Description | Total |
|--|------------|
| 1) Remove 5 loads tree debris @ \$285 each | 1,425.00 |
| 2) 220' of 48" metal pipe @ \$68 per | 14,960.00 |
| 3) 180' of 60" metal pipe @ \$104 per | 18,720.00 |
| 4) 20 loads of #57 stone for pipe bedding @ \$300 per | 6,000.00 |
| 5) Bands for piping | 2,000.00 |
| 6) 3 catch basins with lids, 2' X 3' frame & grate | 5,700.00 |
| 7) Import dirt to place over and around pipe, approx area 400' X 30' wide X 6' depth. Total cubic yard of dirt is 2,666 or 260 dump truck loads @ \$160 per load | 41,600.00 |
| 7a) Donate 100 loads @ \$160 per | -16,000.00 |
| 8) 12 rolls straw matting, 30 bales straw, 200 lbs grass seed | 1,200.00 |

Total \$75,605.00

RyanCo Construction, LLC
2879 Hwy 160 West # 4516
Fort Mill, SC 29708
803-389-7381 Mobile
803-548-0595 Office
ryanburkett@comporium.net

Estimate

| | |
|-----------|------------|
| Date | Estimate # |
| 1/26/2015 | 144 |

Town of Waxhaw NC
 PO Box 1251
 402 Brevard St
 Waxhaw, NC 28173

| |
|-------------|
| Project |
| Nesbit Park |

| Item | Description | Qty | Rate | Total |
|----------------|--|-----|-----------|-----------|
| Clearing | Remove 5-10 loads of tree debris and haul off site/per load | 10 | 180.00 | 1,800.00 |
| Junction Box | Install 2 concrete boxes (5'X5'X5') (6'X6X8') Flat tops and 2X3 yard inlet frame ingrate | 2 | 4,500.00 | 9,000.00 |
| 48" Metal Pipe | Install 220' of 48" corrugated metal piping on a 6" stone base | 1 | 24,800.00 | 24,800.00 |
| 60" Metal Pipe | Install 180" of 60" corrugated metal piping on a 6" stone base | 1 | 23,436.00 | 23,436.00 |
| Fill Dirt | Import 250 tandem loads of fill dirt | 250 | 134.00 | 33,500.00 |
| Seed & Straw | Multiple rolls of straw matting, bales of straw and seed to cover 400 SF of area | 1 | 2,300.00 | 2,300.00 |
| | Sales Tax | | 7.00% | 0.00 |

We look forward to working with you!

Total \$94,836.00

WINCHESTER GRADING INC.

GRADING • CLEARING • EROSION CONTROL • SINCE 1976



5820 Weddington Rd., Monroe, NC, 28110 Office: 704-283-1001 Fax: 704-282-1142

Date: 2/3/15

To: Natalie Jackson, Town of Waxhaw

From: Josh Winchester, Winchester Grading Inc.

Re: Nesbit Park Drainage and Erosion Control Repair

Please accept our bid of **\$132,062.50** for the following work:

Erosion Control

| Item | Quantity | Units | Unit Price | Total | Notes |
|--------------------------|----------|-------|--------------|-------------------|-------|
| Construction Entrance | 1 | Each | \$1,800.00 | \$1,800.00 | |
| Erosion Control Blankets | 1000 | SY | \$3.00 | \$3,000.00 | S75 |
| Inlet Protection | 3 | Each | \$250.00 | \$750.00 | |
| Grass Seed and Straw | 2250 | SY | \$0.85 | \$1,912.50 | |
| | | | Total | \$7,462.50 | |

Grading

| Item | Quantity | Units | Unit Price | Total | Notes |
|-----------------------------|----------|-------|--------------|---------------------|----------|
| Mobilization | 1 | LS | \$1,500.00 | \$1,500.00 | |
| Clearing and Removal | 10 | Lds | \$450.00 | \$4,500.00 | |
| Import | 250 | Lds | \$125.00 | \$31,250.00 | |
| Finish Grade Site | 2,250 | SY | \$1.00 | \$2,250.00 | |
| 48" CMP | 220 | LF | \$150.00 | \$33,000.00 | 12 Guage |
| 60" CMP | 180 | LF | \$170.00 | \$30,600.00 | 12 Guage |
| Catch Basins w/ Drop Inlets | 3 | Each | \$5,500.00 | \$16,500.00 | |
| #57 Stone for Bedding | 100 | Tons | \$50.00 | \$5,000.00 | |
| | | | Total | \$124,600.00 | |

| | |
|-----------------------|---------------------|
| Erosion Control Total | \$7,462.50 |
| Grading Total | \$124,600.00 |
| Grand Total | \$132,062.50 |

Please note that the following is **not** included in our bid:

- Rip Rap Apron
- Engineering, Surveying and Layout of Site
- Removal and Relocation of Planted Trees
- Removal and Relocation of Existing Utilities
- Sod Replacement on Soccer Fields

Thank you for the opportunity to bid this job for you. If you have any questions please contact me at (704) 283 1001.





Board Report Stephen Maher

For February 10, 2015

- 1) Current State: Marketing and Communications – As an update from last Board Meeting, see attached Powerpoint.
- 2) Update on Process for Selecting Town Manager

Back in October we began the process for selecting our next Town Manager. As the Board interface on to our consultant on this activity, I am pleased to share where we are.

Since October the following has occurred:

- 98 Candidates submitted application to be our next Town Manager
 - With the assistance of our Executive Search Firm, Ralph Andersen and Associates, those 98 candidates were screened with 50% of the candidates being identified for further consideration.
 - Through a series of electronic based interviews the list was narrowed down first to 12 highly qualified candidates. From that list 7 candidates were selected for interviews with the Town Board.
 - Prior to the interviews two candidates withdrew from consideration.
 - Each candidate was asked to respond to a set of supplemental questions that were submitted for consideration prior to interviews.
 - During the week of January 26, the Board conducted extensive interviews; in process of discussing the interviews and candidates.
- 3) Work Sessions :
 - YMCA has requested a work session for week of February 16 with the Board to discuss future relationship approaches. Suggestion is for Tuesday February 17.
 - CCOG would like to remind us of need to schedule follow on meeting with Board – per meeting on January 29.

What is the current state of our communication?

| CATEGORY | CURRENT STATE |
|-------------------|---|
| Policy | <ul style="list-style-type: none"> ▪ No documented policies / practices: <ul style="list-style-type: none"> ▪ On who our stakeholders are ▪ On Brand definition, theme, message, use ▪ On how we communicate to our stakeholders – Departments are autonomous ▪ On how and if we gather input ▪ On customer service ▪ On tools |
| Brand | <ul style="list-style-type: none"> ▪ Investments made / being made in certain “themes” and logos, but no clear definition of purpose, fit, and usage policies <ul style="list-style-type: none"> ▪ Fish Bait, Cappuccino ▪ Proud of our past, passionate about our future ▪ Logo’s |
| Operational Usage | <ul style="list-style-type: none"> ▪ No singular point of control on brand, content, message . Departments are autonomous. (see usage examples on page 2) ▪ Release of content is decentralized and not controlled, and not integrated for the Town. (see tools below) ▪ No Structured approach on stakeholder input – ad hoc |
| Individual Usage | <ul style="list-style-type: none"> ▪ No practice exists that guides Board of Commissioners, Boards and Committees, and Staff. While private life is very much your own, our activities can affect the Town of Waxhaw’s reputation and interests. <ul style="list-style-type: none"> ▪ <i>“ When you speak out on public issues or in a public forum, you do so as an individual, and you should not give the appearance of speaking or acting on the Town’s behalf. This is particularly important with the rise of social networking media. You must always be aware that such services are increasingly being monitored by stakeholders, citizens, colleagues and government agencies alike”</i> |

How are we executing in the Current State?

| CATEGORY | CURRENT STATE |
|---|--|
| Tools / Functional Usage | <ul style="list-style-type: none"> • Website – No oversight on what goes on website,; HR handles administration information; Events handles event information; Departments for individual department updates; • Facebook – No oversight on usage; appropriateness and connections. <ul style="list-style-type: none"> • Town of Waxhaw- HR for all admin information; Events for all event information. Department heads for their own information • Department Facebooks – Each Department makes own decisions • External FB Connections – No policy, individual contracts by department as needed. • Paper – Village News, STMS Brochures – Managed by Events • External Promotions (Welcome to Charlotte, Experience Charlotte,) owned by external group, perception is on town, Written by Events. • Social media – no policy • Others |
| Functional Activities | <ul style="list-style-type: none"> ▪ Press Releases / Announcements : Depends on each individual department... if they have information to be released, they release it . Police Department is most structured. ▪ Meeting Announcements – Directed by open meeting laws. Communication beyond that for stakeholder understanding and awareness is non existant ▪ P ▪ Announcements ▪ |
| The impact of an external contract | <ul style="list-style-type: none"> ▪ Town has no control over message and extended usage and connections: <ul style="list-style-type: none"> ▪ Town / Town Brand is connected to everything presented on the page / site ▪ Town Brand Image is impacted (bad and good) . Town is perceived to be “taking positions” on businesses, individuals, issues, etc) , ▪ Town manpower is impacted to address perceptions . |



STAFF REQUEST TO PLACE ITEM ON BOARD AGENDA

Date of Meeting: February 10, 2015

Department Requesting: Planning and Community Development

Staff Member Requesting: Maxx Oliver

Case #: TA-003036-2014

Brief Summary of the item:

Petition TA-003036-2014 is a request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

Attachments Included:

- Text Amendment Application
- Staff Report
- Proposed Text Amendment Section 11.3.77.A.1 Planned Residential Developments
- Section 11.3.77.A.2 Planned Residential Developments
- Section 11.3.77.A.3 Planned Residential Developments
- January 20, 2015 Planning Board Minutes
- _____
- _____
- _____
- _____

Date submitted to Town Clerk: 1/30/2015



Town of Waxhaw
 Planning & Community Development
 PO Box 617
 Waxhaw, NC 28173
 704-843-2195 (Phone)
 704-243-3276 (Fax)
 www.waxhaw.com

Date Received 12-23-2014
 Received By DL
 Fee 330.00

TEXT AMENDMENT APPLICATION

Date of Application: 12/22/14 Application Number: TA-003036-2014
(completed by staff)

Applicant Information

Applicant Name: J. Mark Fisher

Applicant Address: 10306 Meadow Crossing Lane Cornelius, NC 28031

Applicant Email Address: mfisher@summit-companies.com

Applicant Telephone: 704-506-0554

Type of Change: New Addition _____ or Revision

Ordinance Section: 11-77-A-1

Current Text: The tract containing the P.R.D. shall be a minimum of fifty (50) acres in area.

Proposed Text: The tract containing the P.R.D. shall be a minimum of twenty (20) acres in area.

Reason for requested change (attach additional sheets if necessary): Parcel of Land doesn't meet the 50 acre requirement

I do hereby certify that all information which I have provided for this application is, to the best of my knowledge, correct.

[Signature]
 Signature of Applicant

12/22/14
 Date

All of the information herein required has been submitted by the applicant and is included or attached with this application

Hori Oakley

(Signature of Zoning Administrator)

12-23-14

(Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: 12-23-2014

Reviewed by Planning Board on: 1-20-2015

Action of Planning Board: The Planning Board voted three to two (3-2) to send a favorable recommendation to the Board of Commissioners. Michael Kriemer abstained from voting. an abstention counts as an affirmative vote.

Town Board Public Hearing Held On: 2-10-2015

Date of Town Board Decision: _____

Action Taken by Town Board: _____

***Newspaper Affidavit should be attached**

Public Hearing Notice Filed in: _____
(Name of Newspaper)

Date(s) Notices Published: _____

11 | Schedule of District Regulations

with the Town staff at least thirty (30) days prior to submittal to review the proposed project and determine the appropriate design approach to meet the intent of this ordinance.

1. R-3: The maximum density of a P.R.D in an R-3 district shall be no greater than that which would be realized had the tract been developed as a conventional R-3 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes.) shall not be included in determining the density yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The tract containing the P.R.D. shall be a minimum of fifty (50) acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-3 P.R.D. shall have an area of less than ten-thousand (10,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

2. R-4: The maximum density of a P.R.D. in an R-4 district shall be no greater than that which would be realized had the tract been developed as a conventional R-4 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the density yield of the tract in question. For instance, if there were 100-acres tract that was to be developed for a P.R.D. and the tract contained a 20 acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide

Text Amendment TA-003036-2014
Planned Residential Developments

EXPLANATION OF THE REQUEST

Petition TA-003036-2014 is a request by J. Mark Fisher to amend *Section 11.77.A.1 Planned Residential Developments* of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections *11.77.A.2 and 11.77.A.3* to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

REQUESTED UDO CHANGES

Section 11.3.77.A.1 Planned Residential Developments *(see attached language)*

Language was amended in this section that regulates the minimum required tract size for a PRD in the R-3 zoning district.

Section 11.3.77.A.2 Planned Residential Developments *(see attached language)*

Language was amended in this section that regulates the minimum required tract size for a PRD in the R-4 zoning district.

Section 11.3.77.A.3 Planned Residential Developments *(see attached language)*

Language was amended in this section that regulates the minimum required tract size for a PRD in the RM-1 zoning district.

PLANNING STAFF ANALYSIS

In May of 2013 the Waxhaw Board of Commissioners approved a text amendment that reduced the minimum tract size required for a Planned Residential Development in the R-4 and RM-1 residential zoning districts. The text amendment reduced the minimum tract size from 100 acres to 50 acres.

Currently, the UDO requires a minimum tract size of 50 acres for Planned Residential Developments in all zoning districts in which PRDs are permitted, R-3, R-4, and RM-1.

The applicant has proposed an amendment to the text that would reduce the minimum allowable tract size for a PRD in the R-3 zoning district by 30 acres, to a minimum size of 20 acres. In addition staff is proposing that the minimum tract size for a PRD in the R-4 and RM-1 districts also be reduced to maintain consistency within the Planned Residential Development regulations and to bring Waxhaw's UDO more in line with the PRD and cluster subdivision requirements of other jurisdictions around the state. The proposed amendment would not change any other regulations affecting Planned Residential Developments.

PLANNING STAFF RECOMMENDATION

Planning Staff recommends approval of TA-003036-2014. Staff feels that the proposed amendment is minimal in nature and will encourage the development of thoughtful well designed residential neighborhoods that will provide a mixture of housing types.

PLANNING STAFF RECOMMENDATION

The Planning Board, at their January 20, 2015 meeting, voted three to two (3-2) to send a favorable recommendation to the Board of Commissioners on TA-003036-2014. Member Michael Kreimer abstained from voting. An abstention is counted as an affirmative vote. He stated that he did not have enough information to make a decision, therefore he did not vote. Member Fred Burrell stated that he feels staff did not give the text amendment enough consideration with regard to the comprehensive plan rewrite. He stated that he feels there may be unintended consequences. Member John Cannamela stated that he was not sure about the numbers and why 20 acres was proposed. He stated that he needs more information to decide whether or not the text amendment is good for Waxhaw.

Submitted by: Maxx Oliver

Schedule of District Regulations

- R. All applications for a Conditional Use permit for a telecommunication tower must include the following information in addition to any other applicable information contained in Sections 16.2 (Conditional Zoning) and 14.1, 14.2, and 14.3 (Conditional Use Permit) of the Unified Development Ordinance:
1. Identification of intended provider(s);
 2. Documentation by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user, if applicable;
 3. A statement from the owner indicating intent to allow shared use of the tower and how others will be accommodated, if applicable;
 4. Evidence that the applicant of the proposed tower height and design has notified the property owners of residentially zoned property within 300 feet of the site;
 5. Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;
 6. Documentation that towers over 199.9 feet are necessary for a minimal level of service;
 7. Screening, if applicable, must be shown on the site plan detailing the type, amount of plantings, and location;
 8. Documentation of collapse area; and
 9. A statement regarding possible interference, if any, with respect to radio and/or television reception.
- 76. Circuses, carnivals, exhibition shows, sideshows, races, trade shows, flea markets, banquets, conventions, religious events, arts and craft shows, stage shows, athletic events and other similar events, including temporary living quarters.**
- A. Temporary living quarters shall be limited to a period of not more than five (5) days longer than the duration of the event.
- B. No more than thirty (30) total days in any twelve (1) month period for any one (1) separate event.
- 77. Planned Residential Developments/ Traditional Neighborhood Developments**
- In addition to the regulations contained below, regulations for Traditional Neighborhood Developments (TNDs) are included herein. A “TND” shall only be developed as a conditional use in the TND zoning district.
- A. Planned Residential Developments
Planned residential developments (P.R.Ds) are permissible only within the R-3, R-4, and RM-1 zoning districts. The purpose of this district is to allow flexible development with a planned neighborhood character. The developer shall meet

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with the Town staff at least thirty (30) days prior to submittal to review the proposed project and determine the appropriate design approach to meet the intent of this ordinance.

1. R-3: The maximum density of a P.R.D in an R-3 district shall be no greater than that which would be realized had the tract been developed as a conventional R-3 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes.) shall not be included in determining the density yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The tract containing the P.R.D. shall be a minimum of ~~fifty~~ **twenty** (~~50~~) (20) acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-3 P.R.D. shall have an area of less than ten-thousand (10,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

2. R-4: The maximum density of a P.R.D. in an R-4 district shall be no greater than that which would be realized had the tract been developed as a conventional R-4 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the density yield of the tract in question. For instance, if there were 100-acres tract that was to be developed for a P.R.D. and the tract contained a 20 acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide

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density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The tract containing the P.R.D. shall be a minimum of ~~fifty~~ **twenty** (~~50~~) (**20**) acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-4 P.R.D. shall have an area of less than six-thousand (6,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

3. RM-1: The tract containing a P.R.D. shall have a minimum area of ~~fifty~~ **twenty** (~~50~~) (**20**) acres. The maximum density of a P.R.D. shall be 4.5 units per acre. The density yield (i.e., the maximum number of units allowed on the tract) shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e., ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The minimum lot size for any lot containing a detached single-family dwelling shall be five-thousand (5,000) square feet. The P.R.D. can contain single-family detached dwellings, townhomes, or other multi-family dwelling units. Townhomes and other multi-family dwelling units cannot account for greater than fifty (50) percent of all dwelling units within the PRD.

The townhouse or multi-family portions of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless adjoining property that is non-residentially zoned.

In a P.R.D., the screening requirements that would normally apply where multi-family development adjoins a single-family development shall not apply within the tract developed as a planned residential development,

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but all screening requirements shall apply between the tract so developed and adjacent lots.

As part of the P.R.D. the developer shall propose to the Town standards and designs that shall become part of the Conditional Use (CU) Permit and/or Conditional Zoning application. These standards and designs shall address architectural standards, streetscape, and landscaping and common area treatments. The standards and requirements shall incorporate the following as a minimum.

1. Curb and gutter on all interior streets shall be provided.
2. Each single-family dwelling unit must comply with the parking regulations in Section 12 of the Unified Development Ordinance.
3. Usable common open space or recreational areas shall be provided within the P.R.D. Common open space area shall consist of a minimum area of at least twenty (20) percent of the total acreage within the entire project. All common open space areas shall be accessible by sidewalk from the residential developed portions of the P.R.D.
4. All of the common open space required under this Section shall be either conveyed to the Town of Waxhaw, if the Town agrees to accept ownership of and maintenance responsibilities, or conveyed to one or more homeowner associations created for the development, or with respect to outdoor recreation facilities to the owner or operator thereof; and
5. Any conveyance to a homeowners association shall be subject to restrictive covenants recorded in the Register of Deeds Office. The covenants shall provide for the establishment of a homeowner's association before recording of the Final Plat, where membership is mandatory for each homebuyer and any successive buyer. The association shall be responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space, for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities. Such covenants shall also provide that any change of use in the open space may only occur upon consent of the homeowners association and the Town of Waxhaw.

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6. The Board of Commissioners can attach fair and reasonable conditions to the Conditional Use Permit and/or Conditional Zoning application which may address, as a minimum any of the following items:
 - a. Minimum heated floor areas
 - b. Foundation treatments
 - c. Exterior treatments
 - d. Architectural treatments
 - e. Roof pitch
 - f. Garage standards
 - g. Driveway construction
 - h. Landscaping
 - i. Mailboxes, street name signs and streetlights
 - j. On-site Amenities

7. Yard and setback requirements for a P.R.D. shall be as follows:

Exterior lot setbacks shall apply to those property lines that are contiguous with the exterior boundary of the development. All other setbacks shall meet the interior lot setback requirements. The typical exterior setbacks are as follows:

| | | |
|------------|---|-----------------------|
| Front Yard | - | Twenty-five (25) feet |
| Side Yard | - | Twenty-five (25) feet |
| Rear Yard | - | Forty (40) feet |

For purposes of this subsection, an exterior lot shall be defined as “any lot within the P.R.D. that has one or more lot lines that abut the exterior boundaries of the development.”

Notwithstanding the above, a vegetative buffer of 25 feet shall be placed along the external side and rear periphery yards of the P.R.D. when such side and/or rear yards do not abut another P.R.D. Such buffer may be on private or commonly-owned lands but shall be undisturbed (i.e. contain no principal or accessory structures.) Furthermore, the Waxhaw Town Board reserves the right to waive or modify these standards on a case-by-case basis at the time of approval of the P.R.D.

Typical interior lot setbacks are as follows:

Detached Dwellings:

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| | |
|-------------|--|
| Front Yard- | Twenty (20) feet |
| Rear Yard- | Thirty (30) feet |
| Side Yard - | An aggregate side yard width on each lot of fifteen (15) feet. The minimum side yard width shall be five (5) feet. |

Notwithstanding the above, the minimum lot width and the minimum front yard, rear yard and side yard setbacks on lots in a Planned Residential Development district may vary and shall be subject to the approval by the Town Board (in association with the approval of a Conditional Use Permit or a Conditional zoning) on a case-by-case basis.

Townhomes:

| | |
|------------------------------|------------------|
| Front Yard- | Ten (10) feet |
| Rear Yard- | Twenty (20) feet |
| Side Yard- | Zero (0) feet |
| Side Yard (End of Building)- | Five (5) feet |

Notwithstanding the above, the minimum lot width and the minimum front yard, rear yard and side yard setbacks on lots in a Planned Residential Development district may vary and shall be subject to approval by the Town Board (in association with the approval of a Conditional Use Permit or a Conditional zoning) on a case-by-case basis.

B. Traditional Neighborhood Developments

If a proposed Planned Residential Subdivision (PRD) sufficiently meets the character and intent of a Traditional Neighborhood Development (TND), and the Town agrees to accept the street for maintenance, TND road standards may be used. The characteristics of TND criteria are listed below. In that case, street standards design guidelines provided in the "TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) GUIDELINES", latest edition, as published by the North Carolina Department of Transportation - Division of Highways, shall be used in lieu of the Standards listed in Section 18.9.2.(A) to 18.9.2.(N) herein

TND's shall also meet the following criteria:

1. SIZE: A TND should be designed at a walkable scale - considered to be approximately a 5 to 10 minute walk from core to edge, or a 1/4 to 1/2 mile

**Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
January 20, 2015**

The Waxhaw Planning Board met in a special session Tuesday, January 20, 2015 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Special Called Meeting

1. Call to Order

David Godfrey called the meeting to order at 6:30 pm.

2. Roll Call and Determination of Quorum

A roll call and determination of quorum was made.

Present: Chairman Godfrey, Vice-Chairman Underwood, John Cannamela, Michael Kreimer, Fred Burrell, Staff Rice, Staff Oakley, Interim Manager Mahar, and Recording Secretary Oliver.

Absent: James Mathieson, Thomas Dwyer, Dan Gingrich, and Bob Morgan.

3. Work Session

NONE

4. Unfinished Business

NONE

5. New Business

A. TA-003036-2014 - A request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

Staff Oliver gave a presentation on TA-003036-2014 (see attached).

Chairman Godfrey asked why staff did not propose to remove the minimum required tract size. Staff Oliver explained that staff felt the Board of Commissioners would be more comfortable with a reduction than an elimination of a minimum tract size.

John Cannamela asked if the case was a variance. Staff Oakley stated that it was not a variance.

Staff Oakley explained the history of the text amendment and the reduction to the minimum tract size that was requested by the developer of the Millbridge subdivision and passed in May of 2013.

Fred Burrell stated that he has an issue with reducing the minimum required tract size while the comprehensive plan is being rewritten. He asked what the benefit of reducing the minimum tract size for Planned Residential Developments was for Waxhaw. He stated that he does not understand the logic behind the text amendment. He also stated that the UDO should be streamlined and better thought out.

Staff Oakley explained that the subdivision ordinance is in the process of being rewritten and that Planned Residential Developments will be replaced by cluster subdivisions. She explained the concept of a cluster subdivision and why it promotes smart growth and reduces sprawl.

The text amendment applicant, Mark Fisher, explained the reasoning as to why he proposed the text amendment. He presented some research he gathered about PRD requirements in surrounding communities and all communities that he researched required either no minimum tract size or minimums of 10 or 15 acres.

Fred Burrell asked Mark Fisher what the time frame would be for his proposed development. Mark Fisher stated that it would be about 12 months before construction would begin.

Michael Kreimer stated that he appreciates Staff Oakley's explanation of cluster subdivisions.

Vice-Chairman Underwood motioned to send favorable for TA-003036-2014 to the Board of Commissioners. Chairman Godfrey seconded. The motion passed, (3-2).

Michael Kreimer abstained from voting. An abstention is counted as an affirmative vote.

Fred stated that he feels staff did not give the text amendment enough consideration with regard to the comprehensive plan rewrite. He stated that he feels there may be unintended consequences.

Michael Kreimer stated that he did not have enough information to make a decision, therefore he did not vote.

John Cannamela stated that he was not sure about the numbers and why 20 acres was proposed. He stated that he needs more information to decide whether or not the text amendment is good for Waxhaw.

- B. RZ-003035-2014 - A request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

Staff Rice gave a presentation on RZ-003035-2014 (see attached).

Michael Kreimer asked if the applicant wanted to rezone the property to allow for a light industrial use. Staff Rice stated that the proposed use is for a microbrewery and restaurant. Staff Rice stated that the microbrewery would fall under the classification of light industrial.

Fred Burrell stated that there are several doughnut holes in the Town Center (TC) zoning where Neighborhood Mixed Use (NMX) is in place. Staff Rice stated that during the initial Downtown Code rezoning some of the property owners requested to be zoned to NMX rather than TC.

John Cannamela asked what else could be put on that site if it was not developed as a brewery. Staff Rice stated that light industrial uses allowed in the TC district could not produce any fumes or noise and would include things like art studios and light manufacturing of things such as clothing.

The applicants, William and Holly Stewart, stated that they initially wanted to remain in the NMX district so that they could possibly live upstairs or rent out the living quarters of their business if they needed to.

Michael Kreimer motioned to send a favorable recommendation for RZ-003035-2014 to the Board of Commissioners. Vice-Chairman Underwood seconded. The motion passed unanimously, (5-0).

- C. RZ-003043-2015 – A request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3.

Staff Rice gave a presentation on RZ-003043-2015 (see attached).

Fred Burrell stated that he was in favor of finishing the Kensington Drive project and that he understands that staff is proposing to rezone the property to R-3 to allow for a

park. He stated that he was concerned that the town could at a later date, sell the property and housing could be developed by right under the R-3 zoning district.

Town Attorney, Chaplin Spencer, stated that there is a deed restriction placed on the property that only allows it to be developed for public uses and preservation.

Fred Burrell motioned to send a favorable recommendation to the Board of Commissioners for RZ-003043-2015. Michael Kreimer seconded. The motion passed unanimously, (5-0).

- D. VA-003046-2015 - A request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Road (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Staff Oakley gave a presentation on VA-003046-2015 (see attached).

Attorney Spencer stated that the findings of fact were proposed by the applicant. He stated the Planning Board does not need to vote on the individual findings of fact but to simply give a favorable or unfavorable recommendation on the variance as a whole.

Attorney Spencer explained the normal road dedication and acceptance process and the issues that lead to the situation that the town is now in with Kensington Drive. He stated that the town has the right to choose whether or not to accept a road after the plat has been recorded.

Attorney Spencer stated that public funds cannot be used to fix a private road and that the town must approve the variance in order to use Powell Bill funds to help pay for the improvements along the entire length of Kensington Drive. He stated that Wells Fargo Bank has volunteered to contribute 400 thousand dollars to the project as they were the bank that took over ownership of the road after the original developer went bankrupt.

Chaplin recommended that the Planning Board send a favorable to the Board of Commissioners on the variance.

John Cannamela asked what would happen in regards to the road if the Board of Commissioners does not approve the variance. Attorney Spencer stated that if the variance is denied, the road will continue to deteriorate and parts of the road could be closed because of dangerous conditions.

Fred Burrell stated that several of the neighborhoods have threatened to petition de-annexation if Waxhaw does not take responsibility for the road. Fred Burrell stated that that there are obviously costs associated with repairing the road but the costs are innumerable if the town does not repair the road.

Fred Burrell thanked everyone involved in working out a solution to the issues with Kensington Drive.

Attorney Spencer stated that this issue has been on the table for several years but now the pieces have fallen into place to move forward on the project.

Fred Burrell motioned that the proposed variance meets the findings of fact and to send a favorable recommendation for VA-003046-2015 to the Board of Commissioners. Michael Kreimer seconded. The motion passed unanimously, (5-0).

6. Other Business - Update on previous case(s) heard by the Planning Board

Staff Oakley stated that there was not a Planning Board meeting in November and that the case heard in December has gone to public hearing but a decision has not been made. She stated that the applicant of the Berger Day Care case, heard in October, delayed the case by a couple of months but that a public hearing was just held on the case at the last Board of Commissioners meeting.

7. Minutes for correction and approval: December 15, 2014 regular meeting

Vice-Chair Underwood motioned to approve the minutes from the December 15, 2014 regular meeting. John Cannamela seconded. The motion passed unanimously, (5-0).

8. Adjournment

John Cannamela motioned to adjourn the meeting at 7:27 p.m. Fred Burrell seconded. The motion passed unanimously, (5-0).

The meeting adjourned at 7:27 p.m.

Respectfully Submitted,

Chairman, David Godfrey

Recording Secretary, Maxx Oliver

Town of Waxhaw Planning Board

Waxhaw Police Department Community Meeting Room
Tuesday January 20, 2015

TA-003036-2014 Planned Residential Developments

Petition TA-003036-2014 is a request by J. Mark Fisher to amend *Section 11.77.A.1 Planned Residential Developments* of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections *11.77.A.2 and 11.77.A.3* to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

Background

- The UDO requires a minimum tract size of 50 acres for Planned Residential Developments in all zoning districts in which PRDs are permitted, R-3, R-4, and RM-1.
- In May of 2013 the Waxhaw Board of Commissioners approved a text amendment that reduced the minimum tract size required for a PRD in the R-4 and RM-1 zoning districts.

Section 11.77.A.1

The tract containing the P.R.D. shall be a minimum of ~~fifty twenty~~ (20) acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-3 P.R.D. shall have an area of less than ten-thousand (10,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

Section 11.77.A.2

The tract containing the P.R.D. shall be a minimum of ~~forty~~ ~~twenty~~ ~~(50)~~ **(20)** acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-4 P.R.D. shall have an area of less than six-thousand (6,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

Section 11.77.A.3

3. RM-1: The tract containing a P.R.D. shall have a minimum area of ~~forty~~ ~~twenty~~ ~~(50)~~ **(20)** acres. The maximum density of a P.R.D. shall be 4.5 units per acre. The density yield (i.e., the maximum number of units allowed on the tract) shall be based on the amount of "developable" land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e., ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

Research

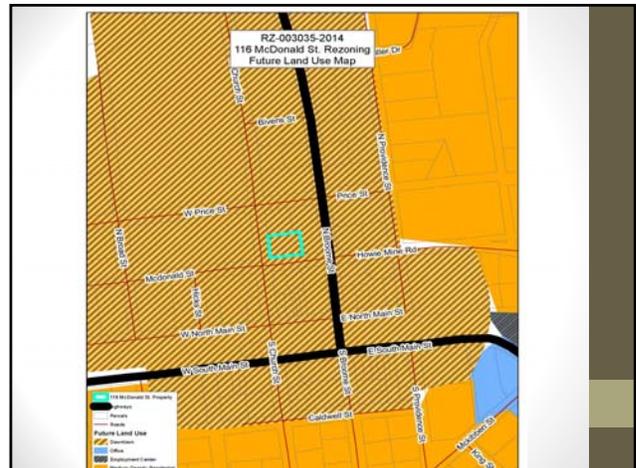
- York County – Planned Development – 40 acre minimum
- Durham – Planned Residential Development – 2 acre minimum (urban tier) 4 acre minimum (suburban tier)
- Franklin County – Planned Unit Development – 25 acre minimum
- Cornelious – Cluster Subdivision – No Minimum
- Matthews – Cluster Subdivision – 10 acre minimum
- Huntersville – Cluster Subdivision – 10 acre minimum
- Pineville – Planned Development/Cluster – No Minimum
- Mint Hill – Cluster Subdivision – 20 acre minimum

Planning Staff Recommendation

Planning Staff recommends approval of TA-003036-2014. Staff feels that the proposed amendment is minimal in nature and will encourage the development of thoughtful well designed residential neighborhoods that will provide a mixture of housing types.

Petition RZ-003035-2014

A request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.





LOCATION AND CURRENT LAND USE

The property is located at 116 McDonald Street and has frontage on McDonald Street and N. Church Street. The property is currently in use as an art gallery and art studio. The property is 0.316 acres in size.

PROPERTY HISTORY

The subject property is zoned NMX (Neighborhood Mixed Use). The NMX zoning was placed on the property as part of the Downtown Code rezoning approved by the Board of Commissioners on November 12, 2013. Previously the property was zoned C-4 (Central Business District).

2030 COMPREHENSIVE PLAN & FUTURE LAND USE MAP

The Future Land Use Map from the 2030 Comprehensive Plan shows the property as Historic Downtown. Historic Downtown is described in the plan as follows:

“This area incorporates the historic structures, civic uses, commercial opportunities, and the active environment that is the downtown core of Waxhaw. The core commercial areas are to be preserved and enhanced over the long-term and should provide mixed-use opportunities that include commercial, office, and institutional uses, and some residential uses.”

The TC zoning is in keeping with the Historic Downtown description in the 2030 Comprehensive Plan and Future Land Use Map, which includes both residential and commercial uses.

PLANNING STAFF ANALYSIS

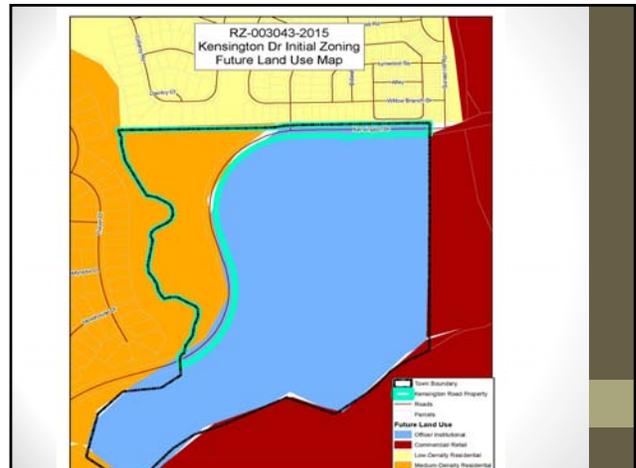
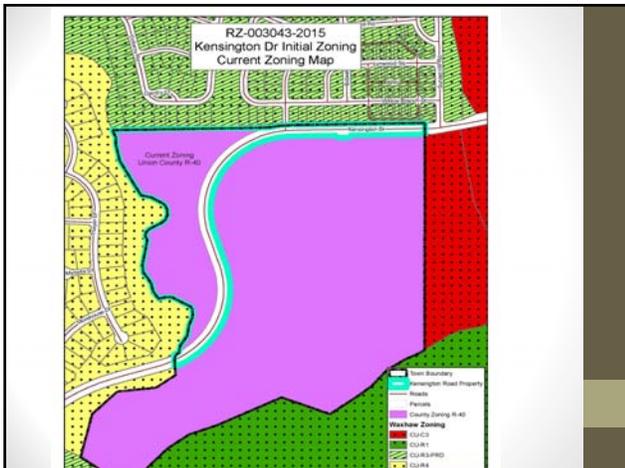
The rezoning request is in keeping with the 2030 Comprehensive Plan and Future Land Use Map which shows the property as Historic Downtown. Although the Regulating Plan from the Downtown Waxhaw Vision Plan depicts the property as NMX, the property abuts TC zoned properties so TC zoning for this parcel would not constitute spot zoning. TC zoning would allow for uniformity in the area as properties are developed and redeveloped over time.

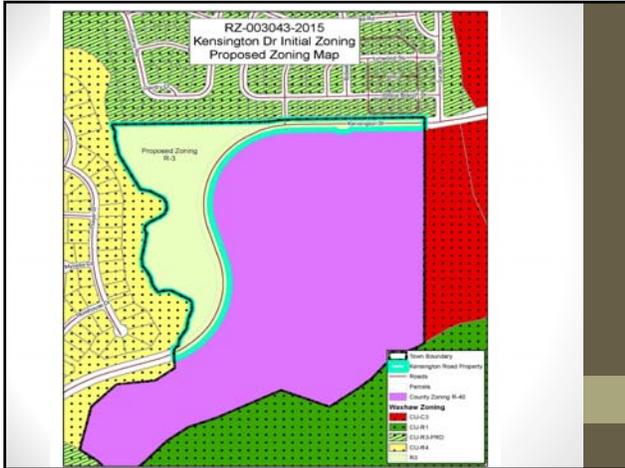
PLANNING STAFF RECOMMENDATION

Staff recommends approval of the proposed rezoning RZ-003035-2014.

RZ-003043-2015

A request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3.





LOCATION AND CURRENT LAND USE

The property is located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. Kensington Drive is located on this portion of the property.

2030 COMPREHENSIVE PLAN & FUTURE LAND USE MAP

The Future Land Use Map contained in the 2030 Comprehensive Plan identifies the subject site as Medium-Density Residential. Chapter 4 of the Comprehensive Plan states the following regarding Medium Density Residential:

"These areas include existing and future areas for development of more dense residential neighborhoods that provide a diversity of housing types and housing options. Areas include single-family detached units, mobile homes, townhouses, duplexes, condominiums, apartments, senior housing, and other multi-family dwelling units, depending upon the character of existing neighborhoods. Housing densities should range from 3-8 dwelling units per acre. Other types of uses that may occur are schools, parks, and some neighborhood commercial uses, such as coffee shops and small corner grocery stores."

Based on the description of Medium-Density Residential the most compatible zoning district for this property in the Town of Waxhaw is R-4.

PLANNING STAFF ANALYSIS

The Waxhaw Future Land Use Plan, contained in the 2030 Comprehensive Plan, shows Medium-Density Residential as the future land use for this property. Housing densities for Medium-Density Residential range from 3 to 8 dwelling units per acre. This is most closely matched by the Waxhaw R-4 zoning district, which requires a minimum lot size of 12,000 square feet. This is compatible to the adjacent properties to the north and west of the property which are developed with densities that are consistent with medium density residential development.

PLANNING STAFF RECOMMENDATION

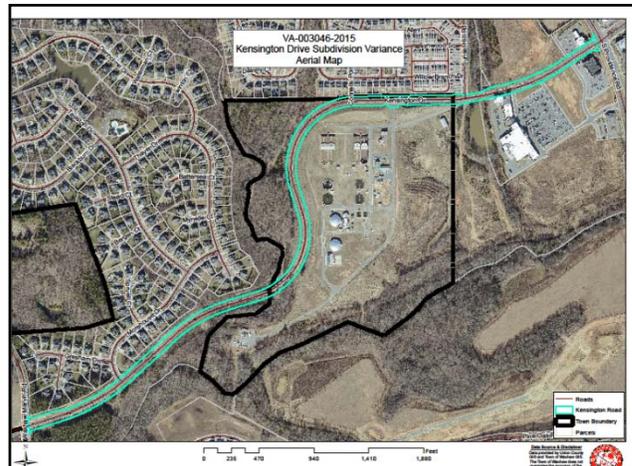
Planning Staff recommends approval of RZ-003043-2015, for the initial zoning from Union County R-40 to Town of Waxhaw R3 for the portion of parcel 06-162-001 which is to be annexed into the Town. R3, which requires a 20,000 square foot minimum lot size, will be a compromise between the 40,000 square foot minimum lot size required currently under the Union County R-40 regulations and the Waxhaw 2030 Comprehensive Plan recommended R4 which requires a 12,000 square foot minimum lot size.

VA-003046-2015

A request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Road (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Variances

- Official permission from a Town Board to depart from the requirements of the Unified Development Ordinance.
 - Most variances are reviewed and decided upon by the Board of Adjustment.
-
- Section 18.11 states the Town Board may authorize a variance from the regulations contained in this Section (*Subdivision Regulations*), if, in its opinion, undue hardship may result from strict compliance with these regulations. Such variance shall be granted only to the extent that it is absolutely necessary and not to an extent which would violate the intent of this Ordinance.
 - When considering a subdivision variance, the Planning Board shall first consider the subdivision variance request and then make a recommendation to the Town Board.



Kensington Road History

- Wells Fargo has agreed to make another monetary contribution (in the amount of \$400,000.00) to assist with the repair of the road; however it will not cover all of the expenses. Also, much of the repairs are needed outside of the boundary of the Wells Fargo tracts (in the Cureton Shopping Center).
- The original developer no longer exists and the town is facing several issues with the road. Not only does the road need to be repaired (or possibly reconstructed), it also does not meet current town standards. The required maintenance bond if the road were to be accepted is impractical as the road will likely be repaired after the road is accepted and eligible for state street funding.

Variance Request

On Dec. 31, 2014, the town filed a subdivision variance application requesting the following variances:

- Section 18.4 (improvements installed according to town standards)
- Section 18.4.1.D (maintenance bond requirements)
- Section 18.9 (general street requirements such as sidewalks, pavements widths, grades and horizontal curves)
- Section 18.10.6 (street lighting requirements)

Reason for Seeking the Variance

Kensington Drive is an integral part of the Town's transportation system. The major developers of Kensington Drive went bankrupt and thus failed to petition the Town for acceptance. The road was dedicated and has been used by the public for years contributing to deterioration. Increased public use beyond original approved design will require additional upgrades. Wells Fargo, as successor in interest to one of the developers, has agreed to pay \$400,000 towards street improvements and upgrades.

Findings of Fact

1. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

This is the most used private road in the Town. Kensington Drive is necessary for general public use and has been used by the public for years. The Town will likely make road improvements to Kensington Drive because of the increased public use.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

As a private road, it could be closed which would deprive the public and the Town reasonable access to their properties. Bonding requirements are impractical with the age the road and likely future improvements to assist with the increased use of Kensington Drive.

Findings of Fact

3. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

Most of the original developers went bankrupt and failed to petition Kensington Drive for public acceptance during original development. There are not many properties with significant public use that are accessed through a private road.

4. The granting of the variance will not be detrimental to the public health, welfare and safety.

Granting the variance will allow the road to become a municipal road subject to Town law enforcement and eligible for public maintenance funds.

5. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

This variance only applies to acceptance of a street and will not affect other UDO provisions.

Planning Staff Analysis

The town is requesting several subdivision variances, including Sections 18.4 (improvements installed according to town standards), 18.4.1.D (maintenance bond requirement), 18.9 (general street requirements) and 18.10.6 (street lighting requirements).

The original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision depicted Kensington Drive as a public Right-of-Way on several plats; however they did not follow through with having the road accepted by the town for acceptance and maintenance prior to filing bankruptcy. The town is in a unique position as the road is being used by thousands of cars every day contributing to the deterioration of it with no one claiming ownership or responsibility for it.

Planning Staff Analysis

The town is requesting several variances in order to allow the Town Board of Commissioners to accept dedication of the road. Once the road is accepted as a town maintained road, the town can then access state funding for repairs and maintenance.

Planning staff recommends that the board consider each of the findings of fact when reviewing the application. If the Board feels that all of the findings are met, then staff recommends approval of VA-003046-2015.

Findings of Fact

The Town Board may only approve a variance if each of the following findings is first made:

- A. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- C. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.
- D. The granting of the variance will not be detrimental to the public health, welfare and safety.
- E. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

18.4 - All site improvements shall be in accordance with applicable standards, including without limitation the provisions of this Ordinance, the standards of Union County Public Works Department (and all applicable rules, regulations, and policies of Union County), and the North Carolina Department of Transportation (and all applicable rules, regulations, and policies of NCDOT).

18.4.1.D - Maintenance of Dedicated Areas until Acceptance

Facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner for a warranty period of one year from the date of acceptance of dedication by the Town Commission. Notwithstanding the foregoing, the owner of any development containing streets or sidewalks intended for public dedication shall maintain the streets and/or sidewalks for a warranty period until 80% of the lots on the street petitioned for acceptance have received a Certificate of Occupancy.

In order to properly secure such maintenance and warranty, the owner of any development containing improvements intended for public dedication shall post a maintenance bond or other sufficient surety to guarantee that such improvements will be properly maintained until (i) the date that 80% of the lots on the street and/or sidewalk petitioned for acceptance have received a Certificate of Occupancy and (ii) one-year of formal acceptance by resolution of the Town of Waxhaw. The amount of the security shall be \$10,000 plus 5% of the cost of stone base, paving, curb & gutter, sidewalk and street trees. The owner shall provide information sufficient for the Town of Waxhaw Zoning Administrator to determine the actual cost of such improvements. If the surety/bond described herein is not provided, the Town of Waxhaw may not issue Zoning Permits to any properties on the said street(s) without (i) a showing of undue hardship (ii) the grant will not materially affect the Town's future enforcement of this provision on the improvements at issue; (iii) approval by both the Zoning Administrator and the Director of Planning and Community Development; and (iv) compliance with any policy adopted by the Board of Commissioners related to maintenance of dedicated areas. The Zoning Administrator may relieve the owner of the requirements of this Section, if it determines that a property owners association has been established for the development, and that this association has requested responsibility for the subject improvements, and is capable of performing the obligations set forth in Section 18.4.1 above. The Zoning Administrator may require the property owners association post the bond referred to above.

The above bond/surety shall be posted with the Town of Waxhaw prior to the release of any Guarantee Surety referred to in Section 18.4.1.A (1) and (2). The Town shall have the right to increase the warranty period for atypical construction materials or construction techniques or sub-standard construction.

No street shall be petitioned for acceptance of dedication until sixty percent (60%) of the lots on the street have been issued a Certificate of Occupancy by the Town of Waxhaw.

Prior to the expiration of the maintenance guarantee instrument, any defects in workmanship and/or materials shall be repaired to the satisfaction of the Zoning Administrator or his/her designee. Any repairs not completed within thirty (30) days prior to the expiration of the maintenance guarantee shall require the renewal of the maintenance guarantee. The Town shall, upon final acceptance at the end of the applicable warranty period, release the applicant's bond or letter of credit.

18.9 - 1. General Requirements

E. Site Improvement Standards
All site improvements shall be done in accordance with standards established by the Town of Waxhaw. Plans for such improvement shall be recorded prior to any site work commencement.

F. Sidewalks
Sidewalks shall be required in subdivisions on both sides of the street and on the perimeter of the development along any existing streets. Sidewalks shall provide public access and be dedicated to the Town upon request. All sidewalks shall be connected to existing sidewalks within 500 feet. Sidewalks should be located within the street right-of-way. In order for a sidewalk to be located outside the public right-of-way, the Zoning Administrator must approve the location and an approved sidewalk easement must be recorded with the Union County Register of Deeds prior to issuance of final Zoning Compliance.

1. On all thoroughfare, collector, and commercial streets where sidewalks are provided, there shall be a planting strip placed between the inner edge of the sidewalk and the outer edge of the curb. Said planting strip shall be a minimum of five (5) feet in depth. All sidewalks shall otherwise be built in compliance with current NCDOT Standards for sidewalks in public rights-of-way.
2. The Administrator, in approving plats, shall have the ability to waive or modify the requirements of this Section in particular situations where strict application would serve no meaningful purpose.

2. Streets

F. Right-of-Way Widths
Minimum street right-of-way widths shall not be less than the following:

| | |
|----------------------|----------|
| Major thoroughfares- | 120 feet |
| Minor thoroughfares- | 80 feet |
| Collectors- | 50 feet |
| Local streets- | 40 feet |
| Cul-de-sacs- | 87 feet |

G. Pavement Widths
Minimal pavement widths shall be in accordance with the standards of the North Carolina Department of Transportation except that the end of any cul-de-sac street shall have a minimum pavement width (i.e., diameter) of sixty-seven (67) feet.

H. Grades

1. Street grades shall not be less than one (1) percent.
2. Grades approaching intersections shall not exceed five (5) percent for a distance of not less than one hundred (100) feet from the centerline of the intersection. This requirement shall only apply to the road required to stop at the intersection.

I. Horizontal Curves
Where a centerline deflection angle of more than ten (10) degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

- Major thoroughfare - 500 feet
- Minor thoroughfare & collectors - 300 feet
- Local streets - 150 feet

J. Vertical Curves
All vertical curves shall have such length as necessary to provide safe sight distance.

N. Street Construction and Curb and Gutter
Except as may otherwise be provided in this Ordinance, all streets within the proposed subdivision shall be graded and paved by the developer in accordance with Town of Waxhaw typical design standard for paved streets. Curb and gutter shall be required on all new subdivision road segments. All associated storm drainage is to be contained within the street right-of-way and shall be in accordance with the Town of Waxhaw Stormwater Design Manual.

Proof rolls are required for streets and curb and gutter. A proof roll is a method used by a municipality to test the subgrade soil strength for any deflection that would identify poor weight bearing capacity of a soil prior to the installation of a road or street. Proof rolling identifies areas of poor compaction, high moisture content that is indicated by the truck tires "pumping" as it passes over the soil and areas where organic material may be present.

Town of Waxhaw staff must be present to observe proof rolls. General guidelines and procedures for proof rolls are outlined in the *Proof Roll Guidelines* document. The property owner is responsible for the associated proof roll fee as delineated in the Town of Waxhaw *Proof Roll Guidelines*.

18.10.6 Street Lighting
All public streets, sidewalks, and other common areas or facilities in subdivisions shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

A. Streetlights shall be rated a minimum of 9500-lumen, and shall be 100 watt high pressure sodium vapor located at all intersections and mid-block locations with intervals not exceeding 250 feet.

B. All roads, driveways, sidewalks, parking lots, and other common areas and facilities in un-subdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.

C. All entrances and exits in substantial buildings used for non-residential purposes and in multi-family residential dwellings containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the building.

Streetlights, poles and brackets are to be decorative and shall be subject to approval in the preliminary plat. Where feasible and practical, street light varieties shall be the same throughout the subdivision or individual phases of the subdivision.

All streetlights shall be placed at least two (2) feet inward (i.e., away from the street) from the sidewalk.



STAFF REQUEST TO PLACE ITEM ON BOARD AGENDA

Date of Meeting: February 10, 2015

Department Requesting: Planning and Community Development

Staff Member Requesting: Chris Rice

Case #: RZ-003035-2014

Brief Summary of the item:

Petition RZ-003035-2014 is a request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/ map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

Attachments Included:

- Application
- Aerial Map
- Current Zoning Map
- Future Land Use Map
- Proposed Zoning Map
- Staff Report
- January 20, 2015 Planning Board Minutes containing recommendation of item.
- _____
- _____
- _____

Date submitted to Town Clerk: 1/3/2015



Town of Waxhaw
Planning & Community Development
PO Box 617
Waxhaw, NC 28173
704-843-2195 (Phone)
704-243-3276 (Fax)
www.waxhaw.com

| | |
|---------------|------------|
| Date Received | 12-22-2014 |
| Received By | JL |
| Fee | 330.00 |

ZONING CHANGE APPLICATION

Application Number: RZ- 003035-2014 Date of Application: 12-22-2014

Applicant Information

Applicant Name: Neil Gimon

Applicant Mailing Address: 1201 Beckford Glen Dr., Waxhaw NC

Applicant Telephone: 704-706-8720

Property Owner Name: Bill & Holly Stewart

Property Owner Mailing Address: 5515 Hemby Road, Matthews, NC
28104

Property Owner Telephone: 704-843-5638

Relationship of Applicant to Property Owner: Leasee

Subject Property Information

Property Location: 116 McDonald Street, Waxhaw, NC 28173

Tax Map and Parcel Number(s): 05113034

Existing Zoning: NMX In Flood Area? NO

Requested Zoning District: TC Acreage .3160

Current Use of Land: Retail Store & Workshop

Surrounding Land Uses: Gas Station, Farmers Market

Comments: We are requesting a zoning change to town center
to allow light industrial. We are leasing the workshop
to build a microbrewery, tasting room, and pizza restaurant

No application will be considered complete unless it has been properly completed and submitted to the Zoning Administrator by the deadline for the Planning Board Meeting.

To the best of my knowledge, all of the information herein submitted is accurate and complete.

William M Stewart
(Signature of Property Owner)

12/22/14
(Date)

[Signature]
(Signature of Applicant)

12/22/14
(Date)

All of the information herein required has been submitted by the applicant and is included or attached with this application.

[Signature]
(Signature of Zoning Administrator)

12-22-14
(Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: 12/22/14

Reviewed by Planning Board on: 1/20/15

Action of Planning Board: Planning Board voted to send a favorable recommendation to the Board of Commissioners. The vote was unanimous. (5-0)

Town Board Public Hearing Held On: February 10, 2015

Date of Town Board Decision: _____

Action Taken by Town Board: _____

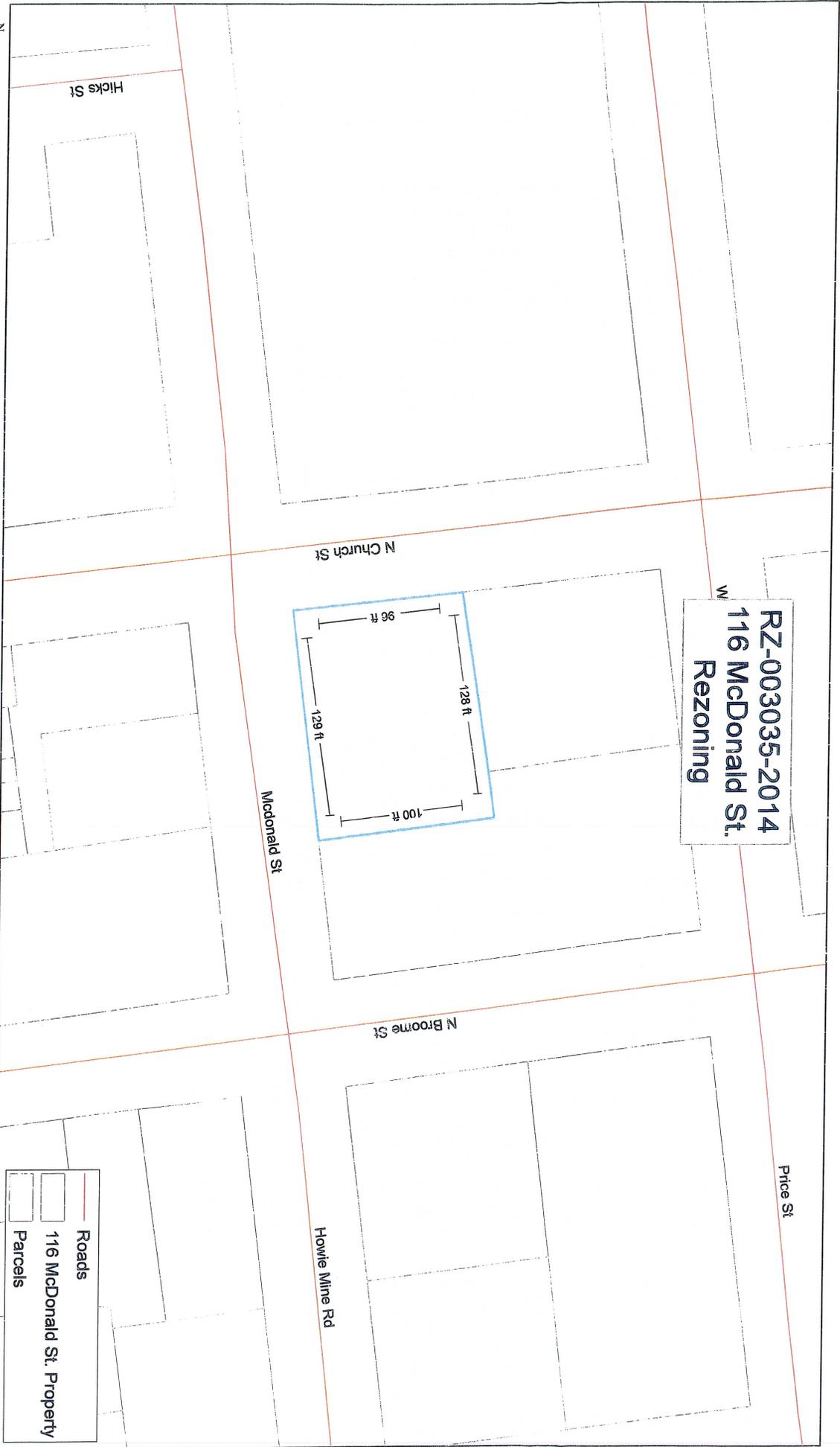
***Newspaper Affidavit should be attached**

Public Hearing Notice Filed in (Newspaper): Enquirer-Journal

Date(s) Notices Published: January 30, 2015 and February 6, 2015

Notification to adjacent property owners mailed on: _____

Property Posting Date: January 30, 2015



RZ-003035-2014
116 McDonald St.
Rezoning

| | |
|--|---------------------------|
| | Roads |
| | 116 McDonald St. Property |
| | Parcels |

Data Source & Disclaimer:
 Data provided by Union County
 GIS Department. The County
 does not warrant the accuracy of the
 information or any of the data
 presented herein. © 2014



S08-20-00E

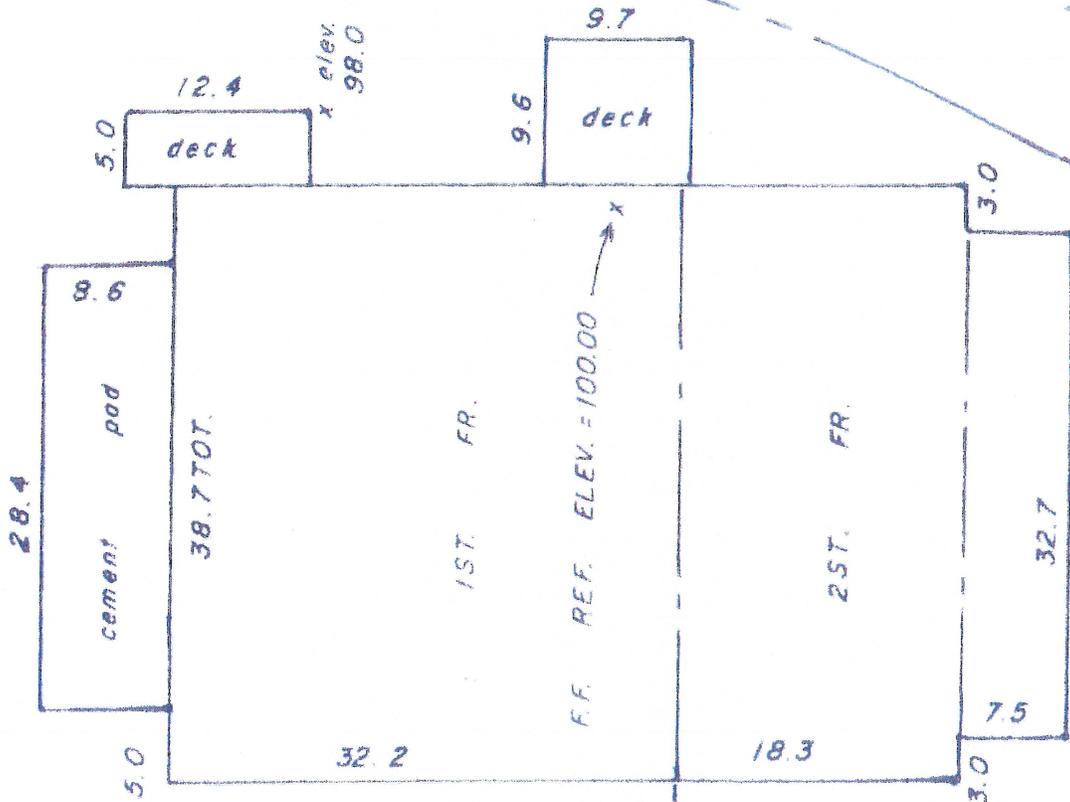
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REFERENCE DEED
D.C. GAMBLE 422-196

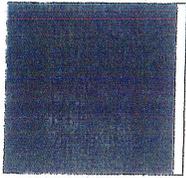


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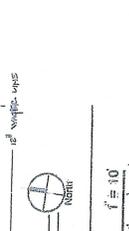
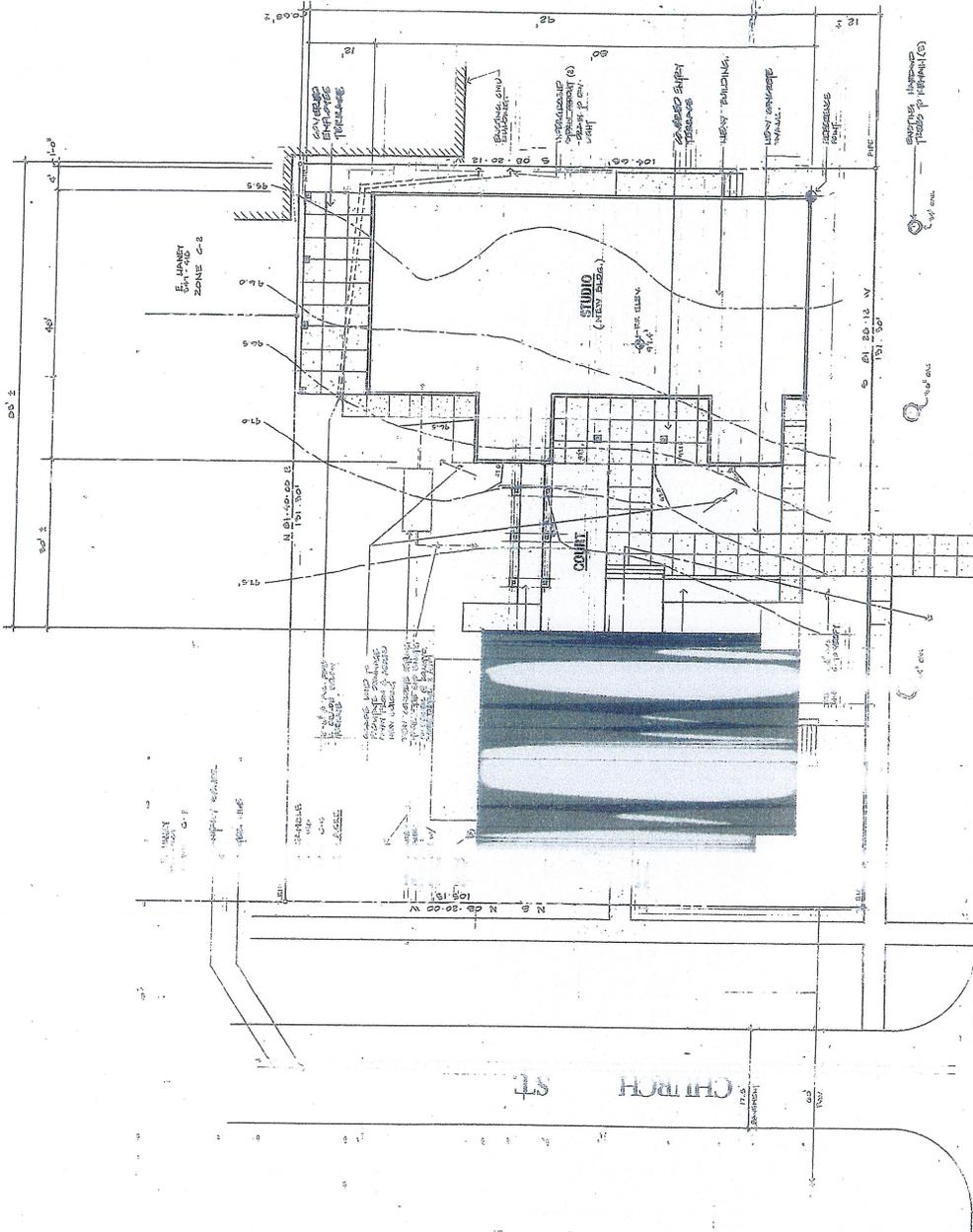
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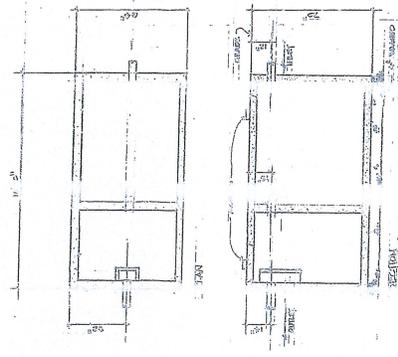
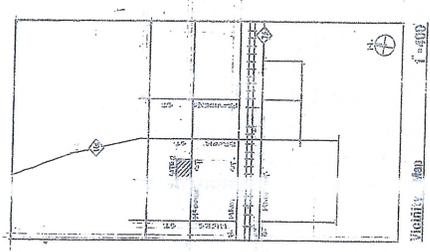
**STEWART'S
STONEWARE**
WAXHAW, N.C.

Date: 8/28/2002, MKS

CONTRACT NO. 11011111
 DATE: 11/11/01
 DRAWN BY: MKS
 CHECKED BY: MKS
 PROJECT: 11011111
 SHEET: 11011111-1
 SCALE: 1/8" = 1'-0"



MCDONALD ST.



REVISIONS:
 1. TO CORRECT THE WINDOW AND DOOR PROFILES TO MATCH THE ARCHITECTURAL DRAWINGS.
 2. TO CORRECT THE WINDOW AND DOOR PROFILES TO MATCH THE ARCHITECTURAL DRAWINGS.
 3. TO CORRECT THE WINDOW AND DOOR PROFILES TO MATCH THE ARCHITECTURAL DRAWINGS.

SP-1

RZ-003035-2014
116 McDonald St. Rezoning
Aerial Map



116 McDonald St. Property
Roads
Parcels



0 25 50 100 150 200 Feet

Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created December 2014.



RZ-003035-2014
 116 McDonald St. Rezoning
 Current Zoning Map

W Price St

Price St

Current Zoning
 NMX

N Broome St

Howie Mine Rd

McDonald St

N Church St

E North Main St

W North Main St

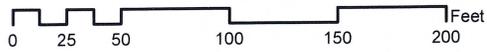
116 McDonald St. Property

Roads

Parcels

Zoning Districts

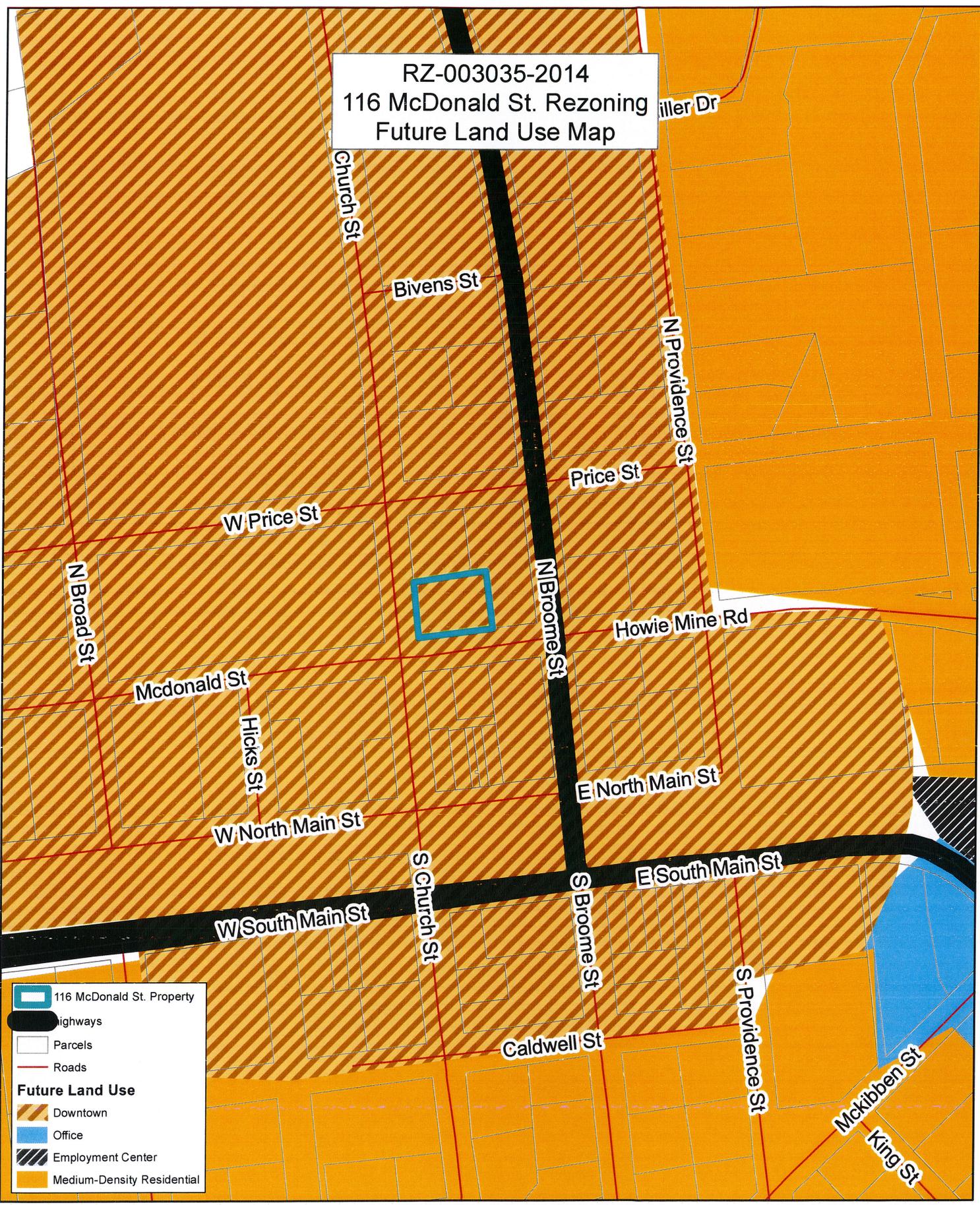
- MS
- NMX
- TC



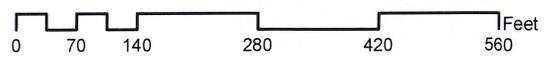
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RZ-003035-2014
 116 McDonald St. Rezoning
 Future Land Use Map



- 116 McDonald St. Property
- Highways
- Parcels
- Roads
- Future Land Use**
- Downtown
- Office
- Employment Center
- Medium-Density Residential



Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created December 2014.



RZ-003035-2014
 116 McDonald St. Rezoning
 Proposed Zoning Map

Proposed Zoning
 TC

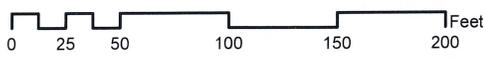
116 McDonald St. Property

Roads

Parcels

Zoning Districts

- MS
- NMX
- TC



Data Source & Disclaimer
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**Rezoning Petition RZ-003035-2014
116 McDonald Street**

EXPLANATION OF THE REQUEST

Petition RZ-003035-2014 is a request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

LOCATION AND CURRENT LAND USE

The property is located at 116 McDonald Street and has frontage on McDonald Street and N. Church Street. The property is currently in use as an art gallery and art studio. The property is 0.316 acres in size.

- Condition and land use of the surrounding properties. The adjoining properties are:
- To the north – The Waxhaw Farmer’s Market, a convenience store, restaurant/bar and an insurance office. These properties are zoned TC (Town Center).
 - To the east – A commercially developed property with a convenience store, restaurant/bar and an insurance office. This property is zoned TC (Town Center).
 - To the south – Across McDonald Street are a town owned vacant lot, the Town of Waxhaw water tower and the McDonald House. These properties are zoned MS (Main Street).
 - To the west – Across N. Church Street is the Waxhaw United Methodist Church. This property is zoned NMX (Neighborhood Mixed Use).

PROPERTY HISTORY

The subject property is zoned NMX (Neighborhood Mixed Use). The NMX zoning was placed on the property as part of the Downtown Code rezoning approved by the Board of Commissioners on November 12, 2013. Previously the property was zoned C-4 (Central Business District).

2030 COMPREHENSIVE PLAN & FUTURE LAND USE MAP

The Future Land Use Map from the 2030 Comprehensive Plan shows the property as Historic Downtown. Historic Downtown is described in the plan as follows;

“This area incorporates the historic structures, civic uses, commercial opportunities, and the active environment that is the downtown core of Waxhaw. The core commercial areas are to be preserved and enhanced over the long-term and should provide mixed-use opportunities that include commercial, office, and institutional uses, and some residential uses.”

The TC zoning is in keeping with the Historic Downtown description in the 2030 Comprehensive Plan and Future Land Use Map, which includes both residential and commercial uses.

DOWNTOWN WAXHAW VISION PLAN

The Downtown Waxhaw Vision Plan shows the property as NMX (Neighborhood Mixed Use) in the *Regulating Plan for Future Development*. However, the property abuts TC (Town Center) zoning, so TC zoning for this parcel would not constitute spot zoning.

PLANNING STAFF ANALYSIS

The rezoning request is in keeping with the 2030 Comprehensive Plan and Future Land Use Map which shows the property as Historic Downtown. Although the Regulating Plan from the Downtown Waxhaw Vision Plan depicts the property as NMX, the property abuts TC zoned properties so TC zoning for this parcel would not constitute spot zoning. TC zoning would allow for uniformity in the area as properties are developed and redeveloped over time.

Staff recommends approval of the proposed rezoning RZ-003035-2014.

PLANNING BOARD RECOMMENDATION

The Planning Board, at their January 20, 2015 meeting, voted unanimously (5-0) to send a favorable recommendation on RZ-003035-2014 to the Board of Commissioners.

STATEMENT OF REASONABLENESS AND CONSISTENCY

The proposed zoning of this parcel appears to be reasonable at this time. It also is consistent with the future planning goals of the Town of Waxhaw

Submitted By: Chris Rice

**Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
January 20, 2015**

The Waxhaw Planning Board met in a special session Tuesday, January 20, 2015 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Special Called Meeting

1. Call to Order

David Godfrey called the meeting to order at 6:30 pm.

2. Roll Call and Determination of Quorum

A roll call and determination of quorum was made.

Present: Chairman Godfrey, Vice-Chairman Underwood, John Cannamela, Michael Kreimer, Fred Burrell, Staff Rice, Staff Oakley, Interim Manager Mahar, and Recording Secretary Oliver.

Absent: James Mathieson, Thomas Dwyer, Dan Gingrich, and Bob Morgan.

3. Work Session

NONE

4. Unfinished Business

NONE

5. New Business

- A. TA-003036-2014 - A request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

Staff Oliver gave a presentation on TA-003036-2014 (see attached).

Chairman Godfrey asked why staff did not propose to remove the minimum required tract size. Staff Oliver explained that staff felt the Board of Commissioners would be more comfortable with a reduction than an elimination of a minimum tract size.

John Cannamela asked if the case was a variance. Staff Oakley stated that it was not a variance.

Staff Oakley explained the history of the text amendment and the reduction to the minimum tract size that was requested by the developer of the Millbridge subdivision and passed in May of 2013.

Fred Burrell stated that he has an issue with reducing the minimum required tract size while the comprehensive plan is being rewritten. He asked what the benefit of reducing the minimum tract size for Planned Residential Developments was for Waxhaw. He stated that he does not understand the logic behind the text amendment. He also stated that the UDO should be streamlined and better thought out.

Staff Oakley explained that the subdivision ordinance is in the process of being rewritten and that Planned Residential Developments will be replaced by cluster subdivisions. She explained the concept of a cluster subdivision and why it promotes smart growth and reduces sprawl.

The text amendment applicant, Mark Fisher, explained the reasoning as to why he proposed the text amendment. He presented some research he gathered about PRD requirements in surrounding communities and all communities that he researched required either no minimum tract size or minimums of 10 or 15 acres.

Fred Burrell asked Mark Fisher what the time frame would be for his proposed development. Mark Fisher stated that it would be about 12 months before construction would begin.

Michael Kreimer stated that he appreciates Staff Oakley's explanation of cluster subdivisions.

Vice-Chairman Underwood motioned to send favorable for TA-003036-2014 to the Board of Commissioners. Chairman Godfrey seconded. The motion passed, (3-2).

Michael Kreimer abstained from voting. An abstention is counted as an affirmative vote.

Fred stated that he feels staff did not give the text amendment enough consideration with regard to the comprehensive plan rewrite. He stated that he feels there may be unintended consequences.

Michael Kreimer stated that he did not have enough information to make a decision, therefore he did not vote.

John Cannamela stated that he was not sure about the numbers and why 20 acres was proposed. He stated that he needs more information to decide whether or not the text amendment is good for Waxhaw.

- B. RZ-003035-2014 - A request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

Staff Rice gave a presentation on RZ-003035-2014 (see attached).

Michael Kreimer asked if the applicant wanted to rezone the property to allow for a light industrial use. Staff Rice stated that the proposed use is for a microbrewery and restaurant. Staff Rice stated that the microbrewery would fall under the classification of light industrial.

Fred Burrell stated that there are several doughnut holes in the Town Center (TC) zoning where Neighborhood Mixed Use (NMX) is in place. Staff Rice stated that during the initial Downtown Code rezoning some of the property owners requested to be zoned to NMX rather than TC.

John Cannamela asked what else could be put on that site if it was not developed as a brewery. Staff Rice stated that light industrial uses allowed in the TC district could not produce any fumes or noise and would include things like art studios and light manufacturing of things such as clothing.

The applicants, William and Holly Stewart, stated that they initially wanted to remain in the NMX district so that they could possibly live upstairs or rent out the living quarters of their business if they needed to.

Michael Kreimer motioned to send a favorable recommendation for RZ-003035-2014 to the Board of Commissioners. Vice-Chairman Underwood seconded. The motion passed unanimously, (5-0).

- C. RZ-003043-2015 – A request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3.

Staff Rice gave a presentation on RZ-003043-2015 (see attached).

Fred Burrell stated that he was in favor of finishing the Kensington Drive project and that he understands that staff is proposing to rezone the property to R-3 to allow for a

park. He stated that he was concerned that the town could at a later date, sell the property and housing could be developed by right under the R-3 zoning district.

Town Attorney, Chaplin Spencer, stated that there is a deed restriction placed on the property that only allows it to be developed for public uses and preservation.

Fred Burrell motioned to send a favorable recommendation to the Board of Commissioners for RZ-003043-2015. Michael Kreimer seconded. The motion passed unanimously, (5-0).

- D. VA-003046-2015 - A request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Road (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Staff Oakley gave a presentation on VA-003046-2015 (see attached).

Attorney Spencer stated that the findings of fact were proposed by the applicant. He stated the Planning Board does not need to vote on the individual findings of fact but to simply give a favorable or unfavorable recommendation on the variance as a whole.

Attorney Spencer explained the normal road dedication and acceptance process and the issues that lead to the situation that the town is now in with Kensington Drive. He stated that the town has the right to choose whether or not to accept a road after the plat has been recorded.

Attorney Spencer stated that public funds cannot be used to fix a private road and that the town must approve the variance in order to use Powell Bill funds to help pay for the improvements along the entire length of Kensington Drive. He stated that Wells Fargo Bank has volunteered to contribute 400 thousand dollars to the project as they were the bank that took over ownership of the road after the original developer went bankrupt.

Chaplin recommended that the Planning Board send a favorable to the Board of Commissioners on the variance.

John Cannamela asked what would happen in regards to the road if the Board of Commissioners does not approve the variance. Attorney Spencer stated that if the variance is denied, the road will continue to deteriorate and parts of the road could be closed because of dangerous conditions.

Fred Burrell stated that several of the neighborhoods have threatened to petition de-annexation if Waxhaw does not take responsibility for the road. Fred Burrell stated that that there are obviously costs associated with repairing the road but the costs are innumerable if the town does not repair the road.

Fred Burrell thanked everyone involved in working out a solution to the issues with Kensington Drive.

Attorney Spencer stated that this issue has been on the table for several years but now the pieces have fallen into place to move forward on the project.

Fred Burrell motioned that the proposed variance meets the findings of fact and to send a favorable recommendation for VA-003046-2015 to the Board of Commissioners. Michael Kreimer seconded. The motion passed unanimously, (5-0).

6. Other Business - Update on previous case(s) heard by the Planning Board

Staff Oakley stated that there was not a Planning Board meeting in November and that the case heard in December has gone to public hearing but a decision has not been made. She stated that the applicant of the Berger Day Care case, heard in October, delayed the case by a couple of months but that a public hearing was just held on the case at the last Board of Commissioners meeting.

7. Minutes for correction and approval: December 15, 2014 regular meeting

Vice-Chair Underwood motioned to approve the minutes from the December 15, 2014 regular meeting. John Cannamela seconded. The motion passed unanimously, (5-0).

8. Adjournment

John Cannamela motioned to adjourn the meeting at 7:27 p.m. Fred Burrell seconded. The motion passed unanimously, (5-0).

The meeting adjourned at 7:27 p.m.

Respectfully Submitted,

Chairman, David Godfrey

Recording Secretary, Maxx Oliver



VI. New Business

- A. Presentation & Discussion of Insurance Renewal by Wells Fargo
Presenter: [Peter White & Scott Anderson](#)

Information

Peter White and Scott Anderson with Wells Fargo will be presenting options for the Town of Waxhaw's insurance renewal (FY 2015/2016).

Board Action

- No action at this time



VI. New Business

- B. Discussion & Possible Action of Annexation of 18.5 Acres
Presenter: [Chaplin Spencer](#)

Information

This is the property deeded to the Town from Union County that includes portions of Kensington Drive. Melody Shuler, Town Clerk, has certified the sufficiency of the annexation petition requested by the Town of Waxhaw on January 13, 2015. A public hearing on the question of this annexation was held at the Police Department Community Room located at 3620 Providence Road South on February 10, 2015 at 6:30 pm. Because the Town has known about this annexation for months and to expedite the process, the Town Board will be holding the public hearing and can vote at the same meeting.

Board Action

- Possible action on annexing approximately 18.5 acres (Tax Parcel ID 06-162-001)



AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF WAXHAW, NORTH CAROLINA

WHEREAS, the Waxhaw Town Board of Commissioners has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Waxhaw Town Board of Commissioners has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the Police Department Community Room located at 3620 Providence Road South on February 10, 2015 at 6:30 pm.

WHEREAS, the Waxhaw Town Board of Commissioners finds that the petition meets the requirements of G.S. 160A-31;

NOW THEREFORE, BE IT ORDAINED, by the Waxhaw Town Board of Commissioners of the Town of Waxhaw, North Carolina that:

Section 1: By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Waxhaw, North Carolina as of February 10, 2015.

Exhibit A

Legal Description

Beginning at a rebar set on the northern Right of Way of Kensington Drive (formerly Cureton Parkway) being located in the Sandy Ridge Township of Union County, North Carolina said point being located approximately 108' south west from Connellis Point Ave as recorded in Plat I-964 in the Union County Registry, said point also having a North Carolina State Plane Coordinate (NAD83) of North 443178.39, East 1471297.85 and a combined scale factor of 0.99986492 and is the POINT OF BEGINNING of the tract described herein; thence with the northern Right of Way of said road an Arc to the Right having a Radius of 605.59' and a Length of 147.93' and being Chorded by a bearing of N 82°00'03" E and a distance of 147.56' to a rebar set; thence with a bearing of N 89°06'40" E and a distance of 836.02' to a rebar set; thence with a bearing of S 0°05'54" E and a distance of 80.01' to a rebar set; thence with a bearing of S 89°06'40" W and a distance of 465.30' to a rebar set; thence with a bearing of S 44°32'18" W and

a distance of 23.91' to a rebar set; thence with a bearing of N 90°00'00" W and a distance of 67.45' to a rebar set; thence with a bearing of N 45°28'59" W and a distance of 22.10' to a rebar set; thence with a bearing of S 89°06'40" W and a distance of 268.54' to a rebar set; thence with an Arc to the Left having a Radius of 525.00' and a Length of 977.17' and being Chorded by a bearing of S 35°47'24" W and a distance of 842.10' to a rebar set; thence with a bearing of S 17°31'52" E and a distance of 235.30' to a rebar set; thence with an Arc to the Right having a Radius of 605.00' and a Length of 869.64' and being Chorded by a bearing of S 23°38'53" W and a distance of 796.68' to a point; thence with a bearing of N 3°12'22" W and a distance of 87.36' to a point (passing a mark set at 43.68'); thence with an Arc to the Left having a Radius of 525.00' and a Length of 38.32' and being Chorded by a bearing of N 59°10'04" E and a distance of 38.31' to a point in Still House Branch; thence with said branch the following 31 calls:

- 1) N 10°08'56" E 49.51' to a point;
- 2) N 32°01'34" E 82.55' to a point;
- 3) N 8°29'05" E 70.60' to a point;
- 4) N 20°02'13" E 70.28' to a point;
- 5) N 2°44'00" W 51.20' to a point;
- 6) N 28°22'44" W 21.77' to a point;
- 7) N 60°37'53" W 135.85' to a point;
- 8) N 89°34'02" W 43.66' to a point;
- 9) S 73°16'07" W 40.83' to a point;
- 10) N 35°38'07" W 58.56' to a point;
- 11) N 13°08'25" W 62.54' to a point;
- 12) N 29°03'41" W 46.00' to a point;
- 13) N 35°32'46" W 44.70' to a point;
- 14) N 6°39'40" W 54.16' to a point;
- 15) N 9°43'45" E 181.90' to a point;
- 16) N 27°08'00" W 30.08' to a point;
- 17) N 13°51'14" E 29.29' to a point;
- 18) N 40°37'52" E 26.31' to a point;
- 19) N 59°38'03" E 47.35' to a point;
- 20) N 62°00'09" E 37.11' to a point;
- 21) N 47°28'28" E 41.46' to a point;
- 22) N 20°29'53" E 36.32' to a point;
- 23) N 4°13'42" W 39.71' to a point;
- 24) N 25°00'21" W 37.23' to a point;
- 25) N 59°34'04" W 99.57' to a point;
- 26) N 77°48'38" W 62.56' to a point;
- 27) N 29°42'56" W 71.12' to a point;
- 28) N 28°40'03" W 208.88' to a point;
- 29) N 12°12'10" W 118.41' to a point;
- 30) N 0°13'09" E 51.58' to a point;
- 31) N 22°55'34" W 51.04' to a point;

thence leaving said branch with a bearing of N 89°01'41" E and a distance of 982.51' to the POINT OF BEGINNING (passing a rebar set at 25.00) and containing or 18.571 Acres, more or less, as shown on survey by Carolina Surveyors, Inc. dated October 1, 2012 and last updated December 19, 2014 and being the same property as recorded in Plat Cabinet M, Filed 578 of the Union County Registry as shown as Tract 1 on survey by Carolina...

Section 2: Upon and after February 10, 2015 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Waxhaw, North Carolina and shall be entitled to the same privileges and benefits as other parts of the Town of Waxhaw, North Carolina. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3: The Mayor of the Town of Waxhaw, North Carolina shall cause to be recorded in the office of the Register of Deeds of Union County, and in the office of Secretary of State of North Carolina, an accurate map of the annexed territory, described in Section (1) above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Union County Board of Elections as required by G.S. 162-288.1.

Duly adopted this the 10th day of February, 2015.

Daune Gardner, Mayor

ATTEST:

Melody Shuler, Town Clerk

APPROVE:

Chaplin Spencer, Town Attorney



VI. New Business

C. Discussion & Possible Action of Initial Zoning of 18.5 Acres

Request by the Town of Waxhaw Planning & Community Development, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3

Presenter: [Chris Rice](#)

Information

This matter is a request by the Town of Waxhaw Planning & Community Development, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3. Because the Town has known about this property for months, the Town Board will be holding the public hearing and can vote at the same meeting.

Board Action

- Possible action on annexing approximately 18.5 acres (Tax Parcel ID 06-162-001)



STAFF REQUEST TO PLACE ITEM ON BOARD AGENDA

Date of Meeting: February 10, 2015

Department Requesting: Planning and Community Development

Staff Member Requesting: Chris Rice

Case #: RZ-003043-2015

Brief Summary of the item:

Petition RZ-003043-2015 is a request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3

Attachments Included:

- Application
- Plat
- Aerial Map
- Current Zoning Map
- Future Land Use Map
- Proposed Zoning Map
- Staff Report
- January 20, 2015 Planning Board Minutes containing recommendation of item.
- _____
- _____

Date submitted to Town Clerk: January 30, 2015



Town of Waxhaw
Planning & Community Development
PO Box 617
Waxhaw, NC 28173
704-843-2195 (Phone)
704-243-3276 (Fax)
www.waxhaw.com

| |
|---------------|
| Date Received |
| 1/7/2015 |
| Received By |
| Chris Rice |
| Fee |
| N/A |

ZONING CHANGE APPLICATION

Application Number: RZ- 003043-2015 Date of Application: 1/7/2015

Applicant Information

Applicant Name: Waxhaw PCD Dept. on behalf of the Waxhaw Board of Commissioners

Applicant Mailing Address: 316 N. Church Street, Waxhaw, NC 28173

Applicant Telephone: 704-843-2195

Property Owner Name: Town of Waxhaw, NC

Property Owner Mailing Address: PO Box 617, Waxhaw, NC 28173

Property Owner Telephone: 704-843-2195

Relationship of Applicant to Property Owner: SAME

Subject Property Information

Property Location: 8316 Kensington Drive (adjacent to the Cureton and Quellin neighborhoods)

Tax Map and Parcel Number(s): portion of 06-162-001

Existing Zoning: Union County R-40 In Flood Area? Yes

Requested Zoning District: R3 Single Family Acreage 18.571

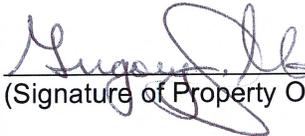
Current Use of Land: Undeveloped

Surrounding Land Uses: Single family residential uses and the Union County wastewater treatment plant.

Comments: This petition is to have the initial Town of Waxhaw zoning placed on the parcel upon annexation.

No application will be considered complete unless it has been properly completed and submitted to the Zoning Administrator by the deadline for the Planning Board Meeting.

To the best of my knowledge, all of the information herein submitted is accurate and complete.



(Signature of Property Owner)

1/7/2015

(Date)



(Signature of Applicant)

1/7/2015

(Date)

All of the information herein required has been submitted by the applicant and is included or attached with this application.



(Signature of Zoning Administrator)

1/7/2015

(Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: 1/7/2015

Reviewed by Planning Board on: 1/20/2015

Action of Planning Board: Planning Board voted to send a favorable recommendation to the Board of Commissioners. The vote was unanimous (5-0).

Town Board Public Hearing Held On: 2/10/15

Date of Town Board Decision: _____

Action Taken by Town Board: _____

***Newspaper Affidavit should be attached**
Public Hearing Notice Filed in (Newspaper): Enquirer - Journal

Date(s) Notices Published: January 30, 2015 and February 6, 2015

Notification to adjacent property owners mailed on: _____

Property Posting Date: January 30, 2015

| | |
|------------|------------------|
| DATE | REVISIONS |
| 12/19/14 | COMMENTS |
| 2012/03/01 | CORRECTION |
| 2012/03/01 | DRAMA BY |
| 10/28/12 | CHECKED BY: CMRN |
| 10/28/12 | FILED |



CAROLINA SURVEYORS, INC.
 P.O. BOX 237 HARRISVILLE, N.C. 28118
 LICENSE NO. 3588-0001

OWNERS: UNION COUNTY
 TOTAL AREA: 18.571 ACRES
 KENSINGTON DRIVE
 A SUBDIVISION OF PROPERTY ON
 KENSINGTON DRIVE

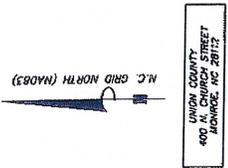
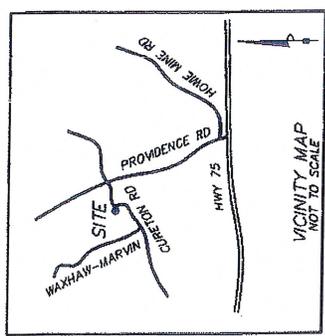
THIS IS TO CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OF ANNOBUN COUNTY THAT HAS AN UNUSUAL SIZE AND REGULATES PARCELS OF LAND.
 THIS IS TO CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OF ANNOBUN COUNTY THAT HAS AN UNUSUAL SIZE AND REGULATES PARCELS OF LAND.
 DECEMBER 18, 2014

FILED: Dec 31, 2014 10:07 am
 INSTRUMENT: 34459
 COUNTY: ANNOBUN
 CRISTAL CHILUP
 REGISTERED DEEDS

THE PURPOSE OF THIS PLAN IS TO REFINISH THE SUBDIVISION AND CREATE THE PARCELS AS SHOWN AND TO RECORD THE FIELD SURVEY OF THE SAME. THE SURVEYOR'S MANUALS, THIS PLAN, AND THE RECORDS OF THE ANNOBUN COUNTY REGISTERED DEEDS, 1-23-2, & 1-48, AT THE ANNOBUN COUNTY REGISTERED DEEDS.

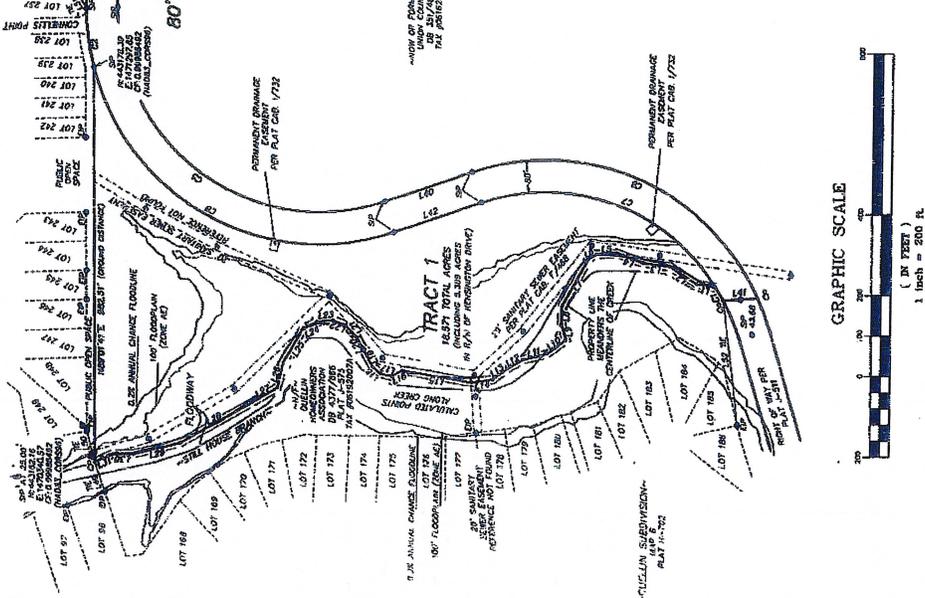
PLANNING DIRECTOR
 DATE: 12/19/14
 REVIEW OFFICER OF UNION COUNTY
 DATE: 12/19/14

REVIEW OFFICER OF UNION COUNTY
 DATE: 12/19/14



| LINE | BEARING | LENGTH |
|------|-------------|--------|
| L1 | N07°09'55"E | 49.91 |
| L2 | N32°07'24"E | 82.55 |
| L3 | N03°23'05"E | 76.99 |
| L4 | N02°14'40"E | 51.20 |
| L5 | N02°14'40"E | 51.20 |
| L6 | N68°21'24"W | 21.77 |
| L7 | N68°37'53"W | 136.85 |
| L8 | N62°34'02"W | 43.66 |
| L9 | S23°16'07"W | 40.89 |
| L10 | N93°09'07"W | 58.59 |
| L11 | N13°08'25"W | 52.52 |
| L12 | N85°31'14"E | 26.37 |
| L13 | N89°38'03"E | 47.15 |
| L14 | N87°28'22"E | 41.46 |
| L15 | N02°29'53"E | 36.71 |
| L16 | N07°13'42"W | 36.71 |
| L17 | N07°13'42"W | 36.71 |
| L18 | N03°51'14"E | 26.37 |
| L19 | N03°23'05"E | 76.99 |
| L20 | N07°09'55"E | 49.91 |
| L21 | N07°09'55"E | 49.91 |
| L22 | N07°09'55"E | 49.91 |
| L23 | N07°09'55"E | 49.91 |
| L24 | N07°09'55"E | 49.91 |
| L25 | N07°09'55"E | 49.91 |
| L26 | N07°09'55"E | 49.91 |
| L27 | N07°09'55"E | 49.91 |
| L28 | N07°09'55"E | 49.91 |
| L29 | N07°09'55"E | 49.91 |
| L30 | N07°09'55"E | 49.91 |
| L31 | N07°09'55"E | 49.91 |
| L32 | N07°09'55"E | 49.91 |
| L33 | N07°09'55"E | 49.91 |
| L34 | N07°09'55"E | 49.91 |
| L35 | N07°09'55"E | 49.91 |
| L36 | N07°09'55"E | 49.91 |
| L37 | N07°09'55"E | 49.91 |
| L38 | N07°09'55"E | 49.91 |
| L39 | N07°09'55"E | 49.91 |
| L40 | N07°09'55"E | 49.91 |
| L41 | N07°09'55"E | 49.91 |
| L42 | N07°09'55"E | 49.91 |
| L43 | N07°09'55"E | 49.91 |
| L44 | N07°09'55"E | 49.91 |
| L45 | N07°09'55"E | 49.91 |
| L46 | N07°09'55"E | 49.91 |
| L47 | N07°09'55"E | 49.91 |
| L48 | N07°09'55"E | 49.91 |
| L49 | N07°09'55"E | 49.91 |
| L50 | N07°09'55"E | 49.91 |
| L51 | N07°09'55"E | 49.91 |
| L52 | N07°09'55"E | 49.91 |
| L53 | N07°09'55"E | 49.91 |
| L54 | N07°09'55"E | 49.91 |
| L55 | N07°09'55"E | 49.91 |
| L56 | N07°09'55"E | 49.91 |

| CURVE | RADIUS | LENGTH | CHORD | BEARING |
|-------|--------|--------|--------|-------------|
| C1 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C2 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C3 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C4 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C5 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C6 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C7 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C8 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C9 | 500.00 | 100.00 | 100.00 | N00°00'00"E |
| C10 | 500.00 | 100.00 | 100.00 | N00°00'00"E |



LEGEND
 30' SET BACK FROM PAV
 30' EXISTING ROW ON
 30' CALCULATED POINT
 30' SET BACK FROM PAV
 30' EXISTING ROW ON
 30' CALCULATED POINT

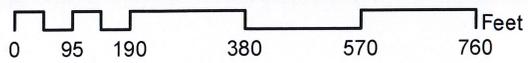
NOTES:
 1. IRON PINS SET AT ALL CORNERS UNLESS OTHERWISE NOTED.
 2. PROPERTY ZONED: R-10
 3. PARCEL NUMBER OR INTERPRETATION FROM THE ZONING BOARD.
 4. DEED REFERENCE: DE 351 PG 482.
 5. BOUNDARY SURVEY ONLY THROUGH POINTS AS SHOWN.
 6. A PORTION OF THIS PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE FLOOD INSURANCE RATE MAP (FIRM) NO. 2716A-0001A WITH A DATE OF EXPIRATION OF OCTOBER 18, 2008.
 7. THIS PROPERTY MAY BE SUBJECT TO ADDITIONAL RECORDS OF UNRECORDED SURVEYS MADE WITHOUT THE BENEFIT OF A TITLE EXAMINATION.
 8. AREA COMPUTED BY COORDINATE METHOD.
 9. NO DEED INSTRUMENT FOUND WITHIN 2000'.
 10. UTILITY LOCATIONS SHOWN ARE LOCATED BASED ON SITE CONDITIONS AT THE TIME OF CONSTRUCTION. THE LOCATIONS ARE TO HAVE ALL UTILITIES ACCURATELY MARKED PRIOR TO CONSTRUCTION.
 11. ANY CONSTRUCTION OR USE WITHIN ANY DESIGNATED FLOOD AREA IS SUBJECT TO THE RESTRICTIONS IMPOSED BY THE FLOODING REGULATIONS.

CAS M File 578

RZ-003043-2015 Kensington Dr Initial Zoning Aerial Map



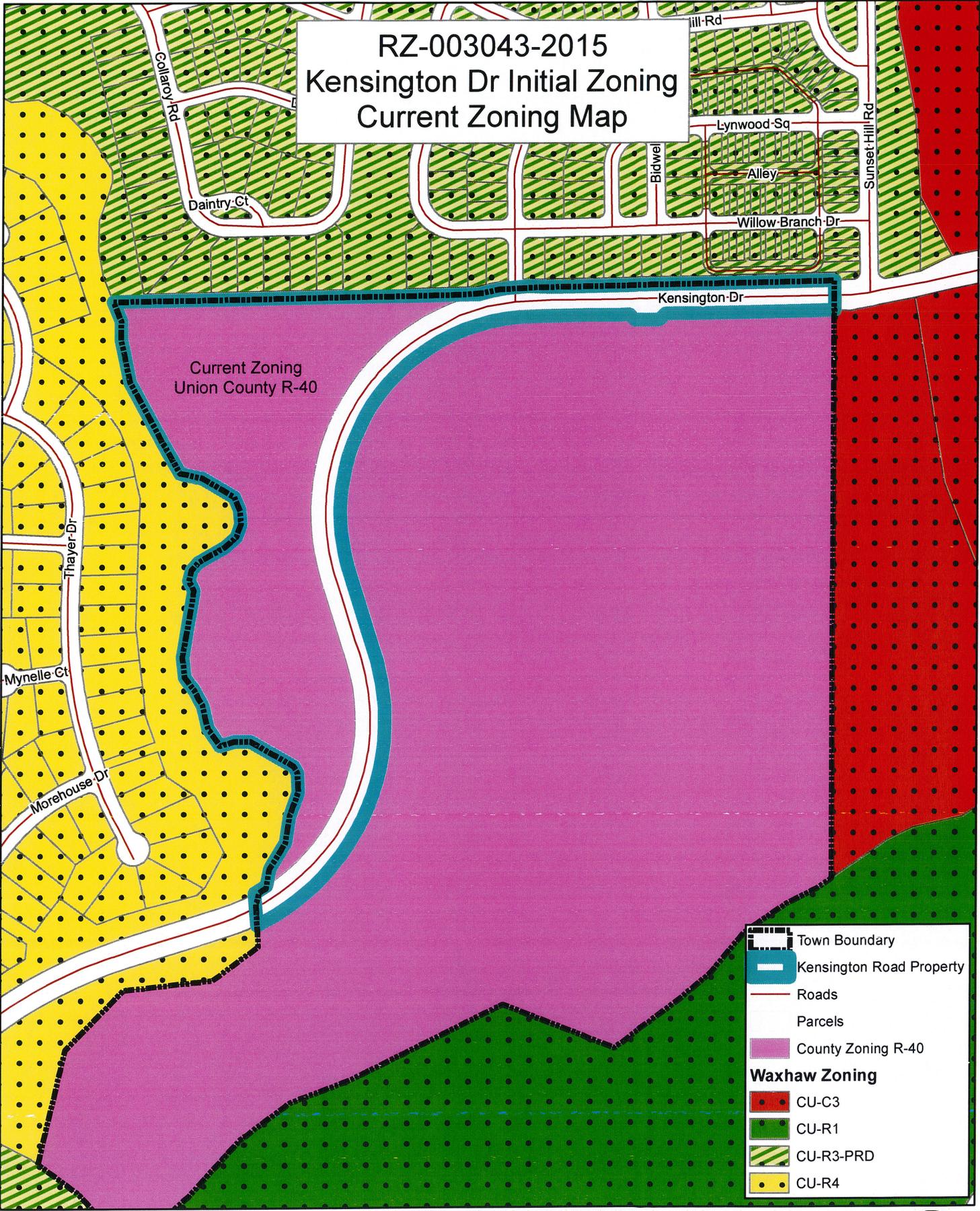
- Roads
- Town Boundary
- Kensington Road Property
- Parcels



Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.

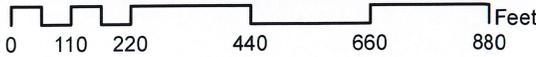


RZ-003043-2015 Kensington Dr Initial Zoning Current Zoning Map



Current Zoning
Union County R-40

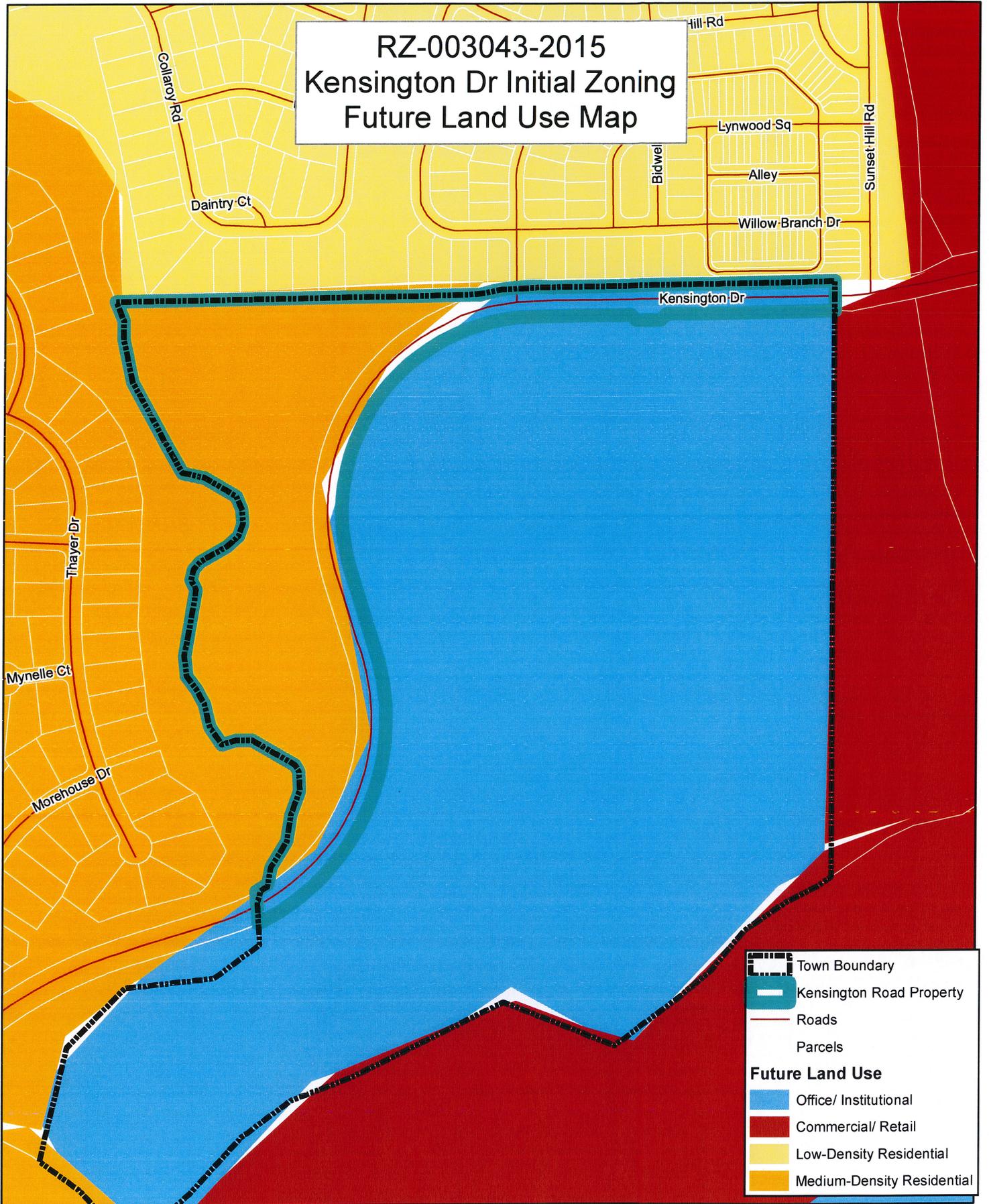
| | |
|----------------------|--------------------------|
| | Town Boundary |
| | Kensington Road Property |
| | Roads |
| | Parcels |
| | County Zoning R-40 |
| Waxhaw Zoning | |
| | CU-C3 |
| | CU-R1 |
| | CU-R3-PRD |
| | CU-R4 |



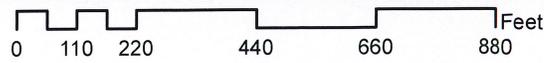
Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



RZ-003043-2015 Kensington Dr Initial Zoning Future Land Use Map



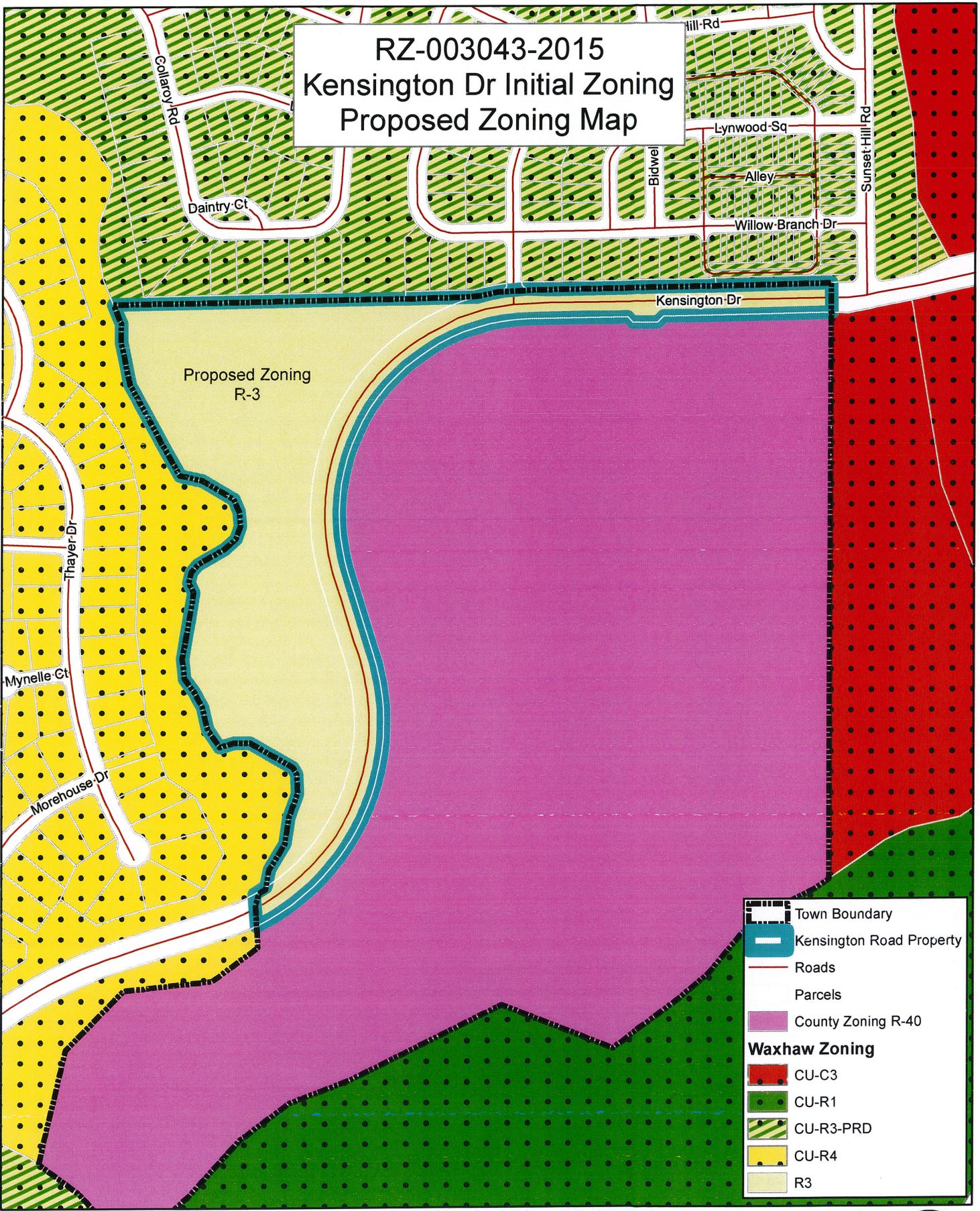
| | |
|------------------------|----------------------------|
| | Town Boundary |
| | Kensington Road Property |
| | Roads |
| | Parcels |
| Future Land Use | |
| | Office/ Institutional |
| | Commercial/ Retail |
| | Low-Density Residential |
| | Medium-Density Residential |



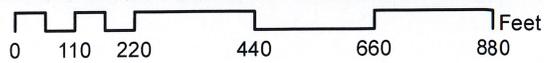
Data Source & Disclaimer
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RZ-003043-2015 Kensington Dr Initial Zoning Proposed Zoning Map



| | |
|----------------------|--------------------------|
| | Town Boundary |
| | Kensington Road Property |
| | Roads |
| | Parcels |
| | County Zoning R-40 |
| Waxhaw Zoning | |
| | CU-C3 |
| | CU-R1 |
| | CU-R3-PRD |
| | CU-R4 |
| | R3 |



Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



**Rezoning Petition RZ-003043-2015
Kensington Road Property**

EXPLANATION OF THE REQUEST

Petition RZ-003043-2015 is a request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3

ANNEXATION PROCESS

The parcel is currently in the annexation process and the zoning process is running concurrently. The Board of Commissioners will hold a public hearing on the proposed annexation on February 10, 2015 with a public hearing on the initial zoning to be held on the same date. The final ordinance reading by the Board of Commissioners for the annexation of the property and the initial zoning of the property will take place per state statute after the required public hearings are conducted.

LOCATION AND CURRENT LAND USE

- The property is located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. Kensington Drive is located on this portion of the property.
- Condition and land use of the surrounding properties. The adjoining properties are:
 - To the north –The Cureton subdivision zoned CU-R3-PRD and is developed with single family homes.
 - To the west – The Quellin subdivision zoned CU-R4 and is developed with single family homes.
 - To the south – The remaining portion of Tax Parcel 06-162-001. The property is zoned Union County R-40.
 - To the east – The remaining portion of Tax Parcel 06-162-001. The property is zoned Union County R-40.

EXISTING ZONING AND LAND USES

1. The Union County zoning for the site is R-40. Article I-X Part 1 Section 135(d) of the Union County Land Use Code states: “The R-40 and R-20 districts are the primary residential districts and are designed to accommodate single-family residential and planned residential developments at low to medium densities. The R-40 district is located mainly in areas that are not served by public water or sewer facilities and that are not yet appropriate for development at higher densities. The minimum lot size requirement for parcels located within the R-40 zoning district is 40,000 square feet provided water and sewer is available. If water and sewer is not available, the lots may have to exceed 40,000 square feet in order to accommodate wells and septic tanks.”

2. Uses permitted in the Union County R-40 zoning district (under Appendix I of the Union County Land Use Code) include the following:

Agricultural Uses, Airports (County Owned/Operated), Single-Family Dwellings, Modular Homes, Governmental Uses (County Owned/Operated), Greenhouses, Family Care Homes, Sanitary Landfills (County Owned/Operated), Schools (Elementary, Middle and Senior High) and Utility Facilities (County Owned/Operated).

2030 COMPREHENSIVE PLAN & FUTURE LAND USE MAP

The Future Land Use Map contained in the 2030 Comprehensive Plan identifies the subject site as Medium-Density Residential. Chapter 4 of the Comprehensive Plan states the following regarding Medium Density Residential:

“These areas include existing and future areas for development of more dense residential neighborhoods that provide a diversity of housing types and housing options. Areas include single-family detached units, mobile homes, townhouses, duplexes, condominiums, apartments, senior housing, and other multi-family dwelling units, depending upon the character of existing neighborhoods. Housing densities should range from 3-8 dwelling units per acre. Other types of uses that may occur are schools, parks, and some neighborhood commercial uses, such as coffee shops and small corner grocery stores.”

Based on the description of Medium-Density Residential the most compatible zoning district for this property in the Town of Waxhaw is R-4.

PLANNING STAFF ANALYSIS

As previously mentioned, the Waxhaw Future Land Use Plan, contained in the 2030 Comprehensive Plan, shows Medium-Density Residential as the future land use for this property. Housing densities for Medium-Density Residential range from 3 to 8 dwelling units per acre. This is most closely matched by the Waxhaw R-4 zoning district, which requires a minimum lot size of 12,000 square feet. This is compatible to the adjacent properties to the north and west of the property which are developed with densities that are consistent with medium density residential development.

STAFF RECOMMENDATION

Planning Staff recommends approval of RZ-003043-2015, for the initial zoning from Union County R-40 to Town of Waxhaw R3 for the portion of parcel 06-162-001 which is to be annexed into the Town. R3, which requires a 20,000 square foot minimum lot size, will be a compromise between the 40,000 square foot minimum lot size required currently under the Union County R-40 regulations and the Waxhaw 2030 Comprehensive Plan recommended R4 which requires a 12,000 square foot minimum lot size.

PLANNING BOARD RECOMMENDATION

The Planning Board, at their January 20, 2015 meeting, voted unanimously (5-0) to send a favorable recommendation on RZ-003043-2015 to the Board of Commissioners. Planning Board member Burrell stated that it was his understanding the intention was this property would be used as park property. He was concerned that if it is zoned R3 the Town could sell it in the future and residences could be constructed. Chaplin Spencer, town legal counsel, explained that the deed for

the property contained a restriction that will run with the land that restricts its use to park uses only. Commissioner Burrell was satisfied and withdrew his concern.

STATEMENT OF REASONABLENESS AND CONSISTENCY

The proposed zoning of this newly incorporated parcel appears to be reasonable at this time. It also is consistent with the future planning goals of the Town of Waxhaw

Submitted By: Chris Rice

**Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
January 20, 2015**

The Waxhaw Planning Board met in a special session Tuesday, January 20, 2015 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Special Called Meeting

1. Call to Order

David Godfrey called the meeting to order at 6:30 pm.

2. Roll Call and Determination of Quorum

A roll call and determination of quorum was made.

Present: Chairman Godfrey, Vice-Chairman Underwood, John Cannamela, Michael Kreimer, Fred Burrell, Staff Rice, Staff Oakley, Interim Manager Mahar, and Recording Secretary Oliver.

Absent: James Mathieson, Thomas Dwyer, Dan Gingrich, and Bob Morgan.

3. Work Session

NONE

4. Unfinished Business

NONE

5. New Business

- A. TA-003036-2014 - A request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

Staff Oliver gave a presentation on TA-003036-2014 (see attached).

Chairman Godfrey asked why staff did not propose to remove the minimum required tract size. Staff Oliver explained that staff felt the Board of Commissioners would be more comfortable with a reduction than an elimination of a minimum tract size.

John Cannamela asked if the case was a variance. Staff Oakley stated that it was not a variance.

Staff Oakley explained the history of the text amendment and the reduction to the minimum tract size that was requested by the developer of the Millbridge subdivision and passed in May of 2013.

Fred Burrell stated that he has an issue with reducing the minimum required tract size while the comprehensive plan is being rewritten. He asked what the benefit of reducing the minimum tract size for Planned Residential Developments was for Waxhaw. He stated that he does not understand the logic behind the text amendment. He also stated that the UDO should be streamlined and better thought out.

Staff Oakley explained that the subdivision ordinance is in the process of being rewritten and that Planned Residential Developments will be replaced by cluster subdivisions. She explained the concept of a cluster subdivision and why it promotes smart growth and reduces sprawl.

The text amendment applicant, Mark Fisher, explained the reasoning as to why he proposed the text amendment. He presented some research he gathered about PRD requirements in surrounding communities and all communities that he researched required either no minimum tract size or minimums of 10 or 15 acres.

Fred Burrell asked Mark Fisher what the time frame would be for his proposed development. Mark Fisher stated that it would be about 12 months before construction would begin.

Michael Kreimer stated that he appreciates Staff Oakley's explanation of cluster subdivisions.

Vice-Chairman Underwood motioned to send favorable for TA-003036-2014 to the Board of Commissioners. Chairman Godfrey seconded. The motion passed, (3-2).

Michael Kreimer abstained from voting. An abstention is counted as an affirmative vote.

Fred stated that he feels staff did not give the text amendment enough consideration with regard to the comprehensive plan rewrite. He stated that he feels there may be unintended consequences.

Michael Kreimer stated that he did not have enough information to make a decision, therefore he did not vote.

John Cannamela stated that he was not sure about the numbers and why 20 acres was proposed. He stated that he needs more information to decide whether or not the text amendment is good for Waxhaw.

- B. RZ-003035-2014 - A request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

Staff Rice gave a presentation on RZ-003035-2014 (see attached).

Michael Kreimer asked if the applicant wanted to rezone the property to allow for a light industrial use. Staff Rice stated that the proposed use is for a microbrewery and restaurant. Staff Rice stated that the microbrewery would fall under the classification of light industrial.

Fred Burrell stated that there are several doughnut holes in the Town Center (TC) zoning where Neighborhood Mixed Use (NMX) is in place. Staff Rice stated that during the initial Downtown Code rezoning some of the property owners requested to be zoned to NMX rather than TC.

John Cannamela asked what else could be put on that site if it was not developed as a brewery. Staff Rice stated that light industrial uses allowed in the TC district could not produce any fumes or noise and would include things like art studios and light manufacturing of things such as clothing.

The applicants, William and Holly Stewart, stated that they initially wanted to remain in the NMX district so that they could possibly live upstairs or rent out the living quarters of their business if they needed to.

Michael Kreimer motioned to send a favorable recommendation for RZ-003035-2014 to the Board of Commissioners. Vice-Chairman Underwood seconded. The motion passed unanimously, (5-0).

- C. RZ-003043-2015 – A request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3.

Staff Rice gave a presentation on RZ-003043-2015 (see attached).

Fred Burrell stated that he was in favor of finishing the Kensington Drive project and that he understands that staff is proposing to rezone the property to R-3 to allow for a

park. He stated that he was concerned that the town could at a later date, sell the property and housing could be developed by right under the R-3 zoning district.

Town Attorney, Chaplin Spencer, stated that there is a deed restriction placed on the property that only allows it to be developed for public uses and preservation.

Fred Burrell motioned to send a favorable recommendation to the Board of Commissioners for RZ-003043-2015. Michael Kreimer seconded. The motion passed unanimously, (5-0).

- D. VA-003046-2015 - A request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Road (from Hwy 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Staff Oakley gave a presentation on VA-003046-2015 (see attached).

Attorney Spencer stated that the findings of fact were proposed by the applicant. He stated the Planning Board does not need to vote on the individual findings of fact but to simply give a favorable or unfavorable recommendation on the variance as a whole.

Attorney Spencer explained the normal road dedication and acceptance process and the issues that lead to the situation that the town is now in with Kensington Drive. He stated that the town has the right to choose whether or not to accept a road after the plat has been recorded.

Attorney Spencer stated that public funds cannot be used to fix a private road and that the town must approve the variance in order to use Powell Bill funds to help pay for the improvements along the entire length of Kensington Drive. He stated that Wells Fargo Bank has volunteered to contribute 400 thousand dollars to the project as they were the bank that took over ownership of the road after the original developer went bankrupt.

Chaplin recommended that the Planning Board send a favorable to the Board of Commissioners on the variance.

John Cannamela asked what would happen in regards to the road if the Board of Commissioners does not approve the variance. Attorney Spencer stated that if the variance is denied, the road will continue to deteriorate and parts of the road could be closed because of dangerous conditions.

Fred Burrell stated that several of the neighborhoods have threatened to petition de-annexation if Waxhaw does not take responsibility for the road. Fred Burrell stated that that there are obviously costs associated with repairing the road but the costs are innumerable if the town does not repair the road.

Fred Burrell thanked everyone involved in working out a solution to the issues with Kensington Drive.

Attorney Spencer stated that this issue has been on the table for several years but now the pieces have fallen into place to move forward on the project.

Fred Burrell motioned that the proposed variance meets the findings of fact and to send a favorable recommendation for VA-003046-2015 to the Board of Commissioners. Michael Kreimer seconded. The motion passed unanimously, (5-0).

6. Other Business - Update on previous case(s) heard by the Planning Board

Staff Oakley stated that there was not a Planning Board meeting in November and that the case heard in December has gone to public hearing but a decision has not been made. She stated that the applicant of the Berger Day Care case, heard in October, delayed the case by a couple of months but that a public hearing was just held on the case at the last Board of Commissioners meeting.

7. Minutes for correction and approval: December 15, 2014 regular meeting

Vice-Chair Underwood motioned to approve the minutes from the December 15, 2014 regular meeting. John Cannamela seconded. The motion passed unanimously, (5-0).

8. Adjournment

John Cannamela motioned to adjourn the meeting at 7:27 p.m. Fred Burrell seconded. The motion passed unanimously, (5-0).

The meeting adjourned at 7:27 p.m.

Respectfully Submitted,

Chairman, David Godfrey

Recording Secretary, Maxx Oliver



VI. New Business

- D. Discussion & Possible Action of Subdivision Variance for Kensington Drive Request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations

Presenter: [Lori Oakley](#)

Information

This matter is a request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Board Action

- Possible action on a subdivision variance for Kensington Drive (Tax Parcel ID 06-162-001)



STAFF REQUEST TO PLACE ITEM ON BOARD AGENDA

Date of Meeting: 2/10/15

Department Requesting: Planning & Community Development

Staff Member Requesting: Lori Oakley

Case #: VA-003046-2015

Brief Summary of the item:

VA-003046-2015 is a request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Attachments Included:

- Application
- Application Responses (Application Attachment)
- Staff Report
- Aerial Map
- Current Zoning Map
- Five (5) record plats of Kensington Road
- Draft PB minutes
- _____
- _____
- _____

Date submitted to Town Clerk: 1/22/15



Town of Waxhaw
Planning & Community Development
 PO Box 617
 Waxhaw, NC 28173
 704-843-2195 (Phone)
 704-243-3276 (Fax)
 www.waxhaw.com

| | |
|---------------|----------|
| Date Received | 12-31-14 |
| Received By | L.O. |
| Fee | N/A |

SUBDIVISION VARIANCE APPLICATION

Date of Application: 12-31-14 Case Number: VA-003046-2015
(to be filled out by staff)

Applicant Information

Applicant Name: Town of Waxhaw Telephone: 704-843-2195

Applicant Mailing Address: PO Box 6, Waxhaw, NC 28173

Applicant Email Address: gmahar@waxhaw.com

Property Owner Name: N/A Telephone: N/A

Property Owner Mailing Address: N/A

Property Information

Address/Location of Property: Kensington Drive (from Hwy. 16 to Waxhaw Marvin Rd.)

Tax Parcel Number(s): N/A

Existing Use of Property: Street Zoning: N/A

Variance Sought: See Attached

Related Section(s) of Unified Development Ordinance: See Attached

Reason(s) for Seeking Variance (attached additional paper if necessary): See Attached

FINDING OF FACTS CHECKLIST

Please provide an explanation for each finding of fact (below) on which the Planning Board will make a recommendation and the Town Board will make its decision.

There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

See Attached

(Continued on the next page)

The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

See Attached

The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

See Attached

The granting of the variance will not be detrimental to the public health, welfare and safety.

See Attached

The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

See Attached

Requests for variances shall be accompanied by a sketch plan of the area included in the variance request.

In the course of evaluating the requested variance, the Administrator, the Planning Board or the Board of Commissioners may request additional information from the applicant.

CERTIFICATIONS

I hereby certify that all of the information provided for this application is, to the best of my knowledge, accurate and complete.


Signature of Applicant

N/A
Signature of Property Owner

Gregory J. Plakar
Printed Name of Applicant

N/A
Printed Name of Property Owner

12-31-14
Date

N/A
Date

This application is accepted, and to the best of my knowledge, deemed to be complete.


Signature of Zoning Administrator

12-31-14
Date

TO BE FILLED OUT BY THE ZONING ADMINISTRATOR

Sketch Plan Attached: Yes No

Variance "Findings of Facts" Checklist Attached Yes No

Planning Board Meeting Date: 1-20-15

Recommendation of the Planning Board: PB voted unanimously (5-0) to recommend approval and stated that all five Findings of Fact have been met.

Town Board Meeting Date(s): 2-10-15

Town Board Decision: _____

Notices to Applicant and Adjoining Property Owners Mailed On: _____

Town of Waxhaw, NC
Subdivision Variance Request
(Variance Application Responses)

VARIANCE SOUGHT: Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the UDO

18.4 – All site improvements shall be in accordance with applicable standards, including without limitation the provisions of this Ordinance, the standards of Union County Public Works Department (and all applicable rules, regulations, and policies of Union County), and the North Carolina Department of Transportation (and all applicable rules, regulations, and policies of NCDOT).

18.4.1.D - Maintenance of Dedicated Areas until Acceptance

Facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner for a warranty period of one year from the date of acceptance of dedication by the Town Commission. Notwithstanding the foregoing, the owner of any development containing streets or sidewalks intended for public dedication shall maintain the streets and/or sidewalks for a warranty period until 80% of the lots on the street petitioned for acceptance have received a Certificate of Occupancy.

In order to properly secure such maintenance and warranty, the owner of any development containing improvements intended for public dedication shall post a maintenance bond or other sufficient surety to guarantee that such improvements will be properly maintained until (i) the date that 80% of the lots on the street and/or sidewalk petitioned for acceptance have received a Certificate of Occupancy and (ii) one-year of formal acceptance by resolution of the Town of Waxhaw. The amount of the security shall be \$10,000 plus 5% of the cost of stone base, paving, curb & gutter, sidewalk and street trees. The owner shall provide information sufficient for the Town of Waxhaw Zoning Administrator to determine the actual cost of such improvements. If the surety/bond described herein is not provided, the Town of Waxhaw may not issue Zoning Permits to any properties on the said street(s) without (i) a showing of undue hardship (ii) the grant will not materially affect the Town's future enforcement of this provision on the improvements at issue; (iii) approval by both the Zoning Administrator and the Director of Planning and Community Development; and (iv) compliance with any policy adopted by the Board of Commissioners related to maintenance of dedicated areas. The Zoning Administrator may relieve the owner of the requirements of this Section, if it determines that a property owners association has been established for the development, and that this association has requested responsibility for the subject improvements, and is capable of performing the

obligations set forth in Section 18.4.1 above. The Zoning Administrator may require the property owners association post the bond referred to above.

The above bond/surety shall be posted with the Town of Waxhaw prior to the release of any Guarantee Surety referred to in Section 18.4.1-A (1) and (2). The Town shall have the right to increase the warranty period for atypical construction materials or construction techniques or sub-standard construction.

No street shall be petitioned for acceptance of dedication until sixty percent (60%) of the lots on the street have been issued a Certificate of Occupancy by the Town of Waxhaw.

Prior to the expiration of the maintenance guarantee instrument, any defects in workmanship and/or materials shall be repaired to the satisfaction of the Zoning Administrator or his/her designee. Any repairs not completed within thirty (30) days prior to the expiration of the maintenance guarantee shall require the renewal of the maintenance guarantee. The Town shall, upon final acceptance at the end of the applicable warranty period, release the applicant's bond or letter of credit.

18.9 - 1. General Requirements

E. Site Improvement Standards

All site improvements shall be done in accordance with standards established by the Town of Waxhaw. Plans for such improvement shall be approved prior to any site work commencement.

F. Sidewalks

Sidewalks shall be required in subdivisions on both sides of the street and on the perimeter of the development along any existing streets. Sidewalks shall provide public access and be dedicated to the Town upon request. All sidewalks shall be connected to existing sidewalks within 500 feet. Sidewalks should be located within the street right-of-way. In order for a sidewalk to be located outside the public right-of-way, the Zoning Administrator must approve the location and an approved sidewalk easement must be recorded with the Union County Register of Deeds prior to issuance of final Zoning Compliance.

1. On all thoroughfare, collector, and commercial streets where sidewalks are provided, there shall be a planting strip placed between the inner edge of the sidewalk and the outer edge of the curb. Said planting strip shall be a minimum of five (5) feet in depth. All sidewalks shall otherwise be built in compliance with current NCDOT Standards for sidewalks in public rights-of-way.
2. The Administrator, in approving plats, shall have the ability to waive or modify the requirements of this Section in particular situations where strict application would serve no meaningful purpose.

2. Streets

F. Right-of-Way Widths

Minimum street right-of-way widths shall not be less than the following:

- | | | |
|----|----------------------|----------|
| 1. | Major thoroughfares- | 120 feet |
| 2. | Minor thoroughfares- | 80 feet |
| 3. | Collectors- | 50 feet |
| 4. | Local streets- | 40 feet |
| 5. | Cul-de-sacs- | 87 feet |

G. Pavement Widths

Minimal pavement widths shall be in accordance with the standards of the North Carolina Department of Transportation except that the end of any cul-de-sac street shall have a minimum pavement width (i.e., diameter) of sixty-seven (67) feet.

H. Grades

1. Street grades shall not be less than one (1) percent.
2. Grades approaching intersections shall not exceed five (5) percent for a distance of not less than one hundred (100) feet from the centerline of the intersection. This requirement shall only apply to the road required to stop at the intersection.

I. Horizontal Curves

Where a centerline deflection angle of more than ten (10) degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

1. Major thoroughfare - 500 feet
2. Minor thoroughfare & collectors - 300 feet
3. Local streets - 150 feet

J. Vertical Curves

All vertical curves shall have such length as necessary to provide safe sight distance.

N. Street Construction and Curb and Gutter

Except as may otherwise be provided in this Ordinance, all streets within the proposed subdivision shall be graded and paved by the developer in accordance with Town of Waxhaw typical design standard for paved streets. Curb and gutter shall be required on all new subdivision road segments. All associated storm drainage is to be contained within the street right-of-way and shall be in accordance with the Town of Waxhaw *Stormwater Design Manual*.

Proof rolls are required for streets and curb and gutter. A proof roll is a method used by a municipality to test the subgrade soil strength for any deflection that would identify poor weight bearing capacity of a soil prior to the installation of a road or street. Proof rolling identifies areas of poor compaction, high moisture content that is indicated by the truck tires “pumping” as it passes over the soil and areas where organic material may be present.

Town of Waxhaw staff must be present to observe proof rolls. General guidelines and procedures for proof rolls are outlined in the *Proof Roll Guidelines* document. The property owner is responsible for the associated proof roll fee as delineated in the Town of Waxhaw *Proof Roll Guidelines*.

18.10.6 Street Lighting

All public streets, sidewalks, and other common areas or facilities in subdivisions shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

- A. Streetlights shall be rated a minimum of 9500-lumen, and shall be 100 watt high pressure sodium vapor located at all intersections and mid-block locations with intervals not exceeding 250 feet.
- B. All roads, driveways, sidewalks, parking lots, and other common areas and facilities in un-subdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.
- C. All entrances and exits in substantial buildings used for non-residential purposes and in multi-family residential dwellings containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the building.

Streetlights, poles and brackets are to be decorative and shall be subject to approval in the preliminary plat. Where feasible and practical, street light varieties shall be the same throughout the subdivision or individual phases of the subdivision.

All streetlights shall be placed at least two (2) feet inward (i.e., away from the street) from the sidewalk.

REASON FOR SEEKING THE VARIANCE

Kensington Drive is an integral part of the Town's transportation system. The major developers of Kensington Drive went bankrupt and thus failed to petition the Town for acceptance. The road was dedicated and has been used by the public for years contributing to deterioration. Increased public use beyond original approved design will require additional upgrades. Wells

Fargo, as successor in interest to one of the developers, has agreed to pay \$400,000 towards street improvements and upgrades.

FINDINGS OF FACT CHECKLIST

1. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

This is the most used private road in the Town. Kensington Drive is necessary for general public use and has been used by the public for years. The Town will likely make road improvements to Kensington Drive because of the increased public use.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

As a private road, it could be closed which would deprive the public and the Town reasonable access to their properties. Bonding requirements are impractical with the age the road and likely future improvements to assist with the increased use of Kensington Drive.

3. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

Most of the original developers went bankrupt and failed to petition Kensington Drive for public acceptance during original development. There are not many properties with significant public use that are accessed through a private road.

4. The granting of the variance will not be detrimental to the public health, welfare and safety.

Granting the variance will allow the road to become a municipal road subject to Town law enforcement and eligible for public maintenance funds.

5. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

This variance only applies to acceptance of a street and will not affect other UDO provisions.

**Subdivision Variance Case VA-003046-2015
Kensington Drive**

EXPLANATION OF THE REQUEST

VA-003046-2015 is a request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

LOCATION AND LAND USE

The property in question is known as Kensington Drive and it extends from the intersection of Hwy. 16 to Waxhaw Marvin Road. The town is not requesting a variance for the portion of Kensington Drive that extends from the intersection of Waxhaw Marvin Road to the South Carolina state line.

The zoning and land uses of the surrounding properties are as follows:

- To the North – The Cureton retail shopping center (zoned CU-C3), Cureton residential subdivision (zoned CU-R3-PRD), vacant land that was recently deeded from Union County to the Town of Waxhaw (currently zoned Union County R-40) and the Quellin residential subdivision (zoned CU-R4).
- To the South – The Cureton retail shopping center (zoned CU-C3), Union County Waste water treatment plant (zoned Union County R-40) and vacant land (zoned CU-R4).
- To the West – Extension of Kensington Drive
- To the East – Cuthbertson Road

HISTORY OF KENSINGTON DRIVE AND ROAD ISSUES

In 2005, the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision recorded a plat for the Cureton Parkway (later renamed Kensington Drive) for the portion of the road that is in front of the Union County Waste Water Treatment Plant. The road was labeled as "80' Proposed Right-of-Way" (see attached Plat Cabinet I Book 732).

In 2006, the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision recorded a plat for Cureton Parkway (later renamed Kensington Drive) for the portion of the road that is adjacent to the Quellin subdivision up to the middle of the bridge (leading to the waste water treatment plant). The plat depicted an 80' Right-of-Way and was recorded in Plat Cabinet J Book 511).

Also in 2006, the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision recorded a plat for Cureton Parkway (later renamed Kensington Drive) through the Cureton shopping center. The 66' of public Right-of-Way was recorded in Plat Cabinet J Book 590. The plat was revised in 2007 (Plat Cabinet K Book 225) and the name of the road was changed to Kensington Drive.

In 2009, the Town staff started working with the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin on street acceptance of Kensington Drive. Staff noted several issues with the existing road and relayed them to the developer. Shortly thereafter the developer went bankrupt and the issues were not fixed with the road.

Wells Fargo Bank acquired most of the commercial land (including undeveloped tracts) in the Cureton Shopping Center and started working with staff to resolve the road issues. A monetary contribution was given to the Town towards the repairs and some of the repairs were made. The residential developments are pretty much complete and built out.

In the meantime, staff was working with Union County to acquire approximately 18 acres of land across Kensington Drive from the waste water treatment plant in order for all Kensington Drive (in between Hwy. 16 and Waxhaw Marvin Road) to lie within the town's jurisdiction. The deed transferring ownership to the town of that property, including that portion of road, was recently recorded in Book 6363 Page 423.

Wells Fargo has agreed to make another monetary contribution (in the amount of \$400,000.00) to assist with the repair of the road; however it will not cover all of the expenses. Also, much of the repairs are needed outside of the boundary of the Wells Fargo tracts (in the Cureton Shopping Center).

The original developer no longer exists and the town is facing several issues with the road. Not only does the road need to be repaired (or possibly reconstructed), it also does not meet current town standards. The required maintenance bond if the road were to be accepted is impractical as the road will likely be repaired after the road is accepted and eligible for state street funding.

| |
|------------------------------------|
| REASON FOR VARIANCE REQUEST |
|------------------------------------|

Kensington Drive is an integral part of the Town's transportation system. The major developers of Kensington Drive went bankrupt and thus failed to petition the Town for acceptance. The road was dedicated and has been used by the public for years contributing to deterioration. Increased public use beyond original approved design will require additional upgrades. Wells Fargo, as successor in interest to one of the developers, has agreed to pay \$400,000 towards street improvements and upgrades.

The Town of Waxhaw is requesting that the Town Board of Commissioners accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

On the application, the applicant states the following regarding the finding of facts (applicant responses are in italics):

1. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

This is the most used private road in the Town. Kensington Drive is necessary for general

public use and has been used by the public for years. The Town will likely make road improvements to Kensington Drive because of the increased public use.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

As a private road, it could be closed which would deprive the public and the Town reasonable access to their properties. Bonding requirements are impractical with the age the road and likely future improvements to assist with the increased use of Kensington Drive.

3. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

Most of the original developers went bankrupt and failed to petition Kensington Drive for public acceptance during original development. There are not many properties with significant public use that are accessed through a private road.

4. The granting of the variance will not be detrimental to the public health, welfare and safety.

Granting the variance will allow the road to become a municipal road subject to Town law enforcement and eligible for public maintenance funds.

5. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

This variance only applies to acceptance of a street and will not affect other UDO provisions.

| |
|--------------------------------|
| PLANNING STAFF ANALYSIS |
|--------------------------------|

The town is requesting several subdivision variances, including Sections 18.4 (improvements installed according to town standards), 18.4.1.D (maintenance bond requirement), 18.9 (general street requirements) and 18.10.6 (street lighting requirements).

The original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision depicted Kensington Drive as a public Right-of-Way on several plats; however they did not follow through with having the road accepted by the town for acceptance and maintenance prior to filing bankruptcy. The town is in a unique position as the road is being used by thousands of cars every day contributing to the deterioration of it with no one claiming ownership or responsibility for it.

The town is requesting several variances in order to allow the Town Board of Commissioners to accept dedication of the road. Once the road is accepted as a town maintained road, the town can then access state funding for repairs and maintenance.

Planning staff recommends that the board consider each of the findings of fact when reviewing the application. If the Board feels that all of the findings are met, then staff recommends approval of VA-003046-2015.

| |
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| PLANNING BOARD RECOMMENDATION |
|--------------------------------------|

At the January 20, 2015 meeting of the Planning Board, the board voted unanimously (5-0) to recommend approval of VA-003046-2015 and stated that the application meets all five Findings of Fact needed to grant a subdivision variance.

The Town Board may only approve a variance if each of the following findings is first made:

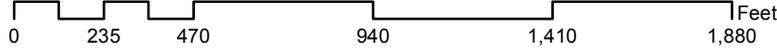
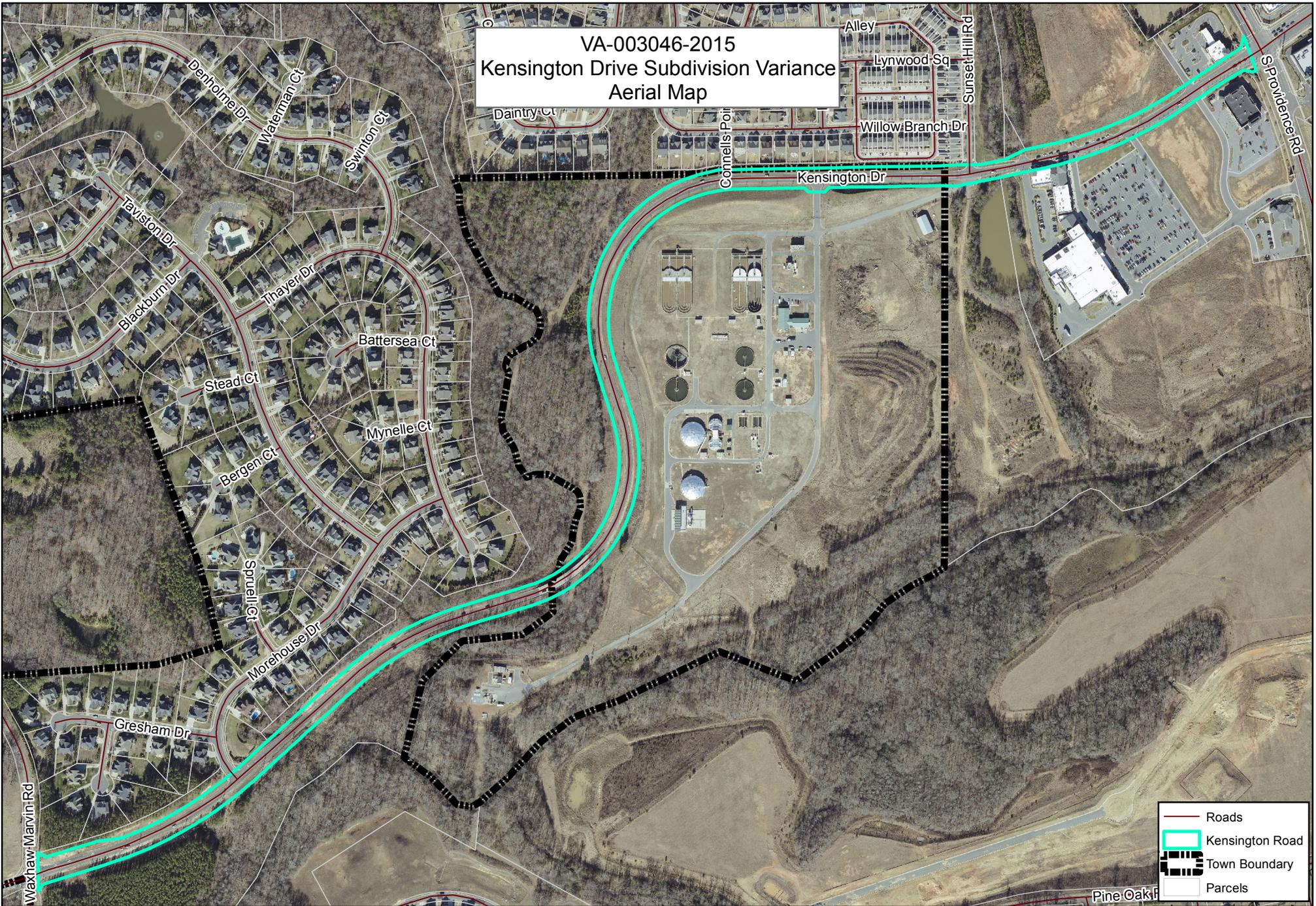
- A. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- C. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.
- D. The granting of the variance will not be detrimental to the public health, welfare and safety.
- E. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

In approving a variance, the Town Board may apply fair and reasonable conditions that support one or more of the findings listed above. The Town Board shall not be required to hold a public hearing with association with the petition for a variance as herein called for.

*****Please refer to the 5 Findings of Fact listed above when making a decision*****

Submitted by: Lori Oakley, Planning & Zoning Administrator

VA-003046-2015
Kensington Drive Subdivision Variance
Aerial Map

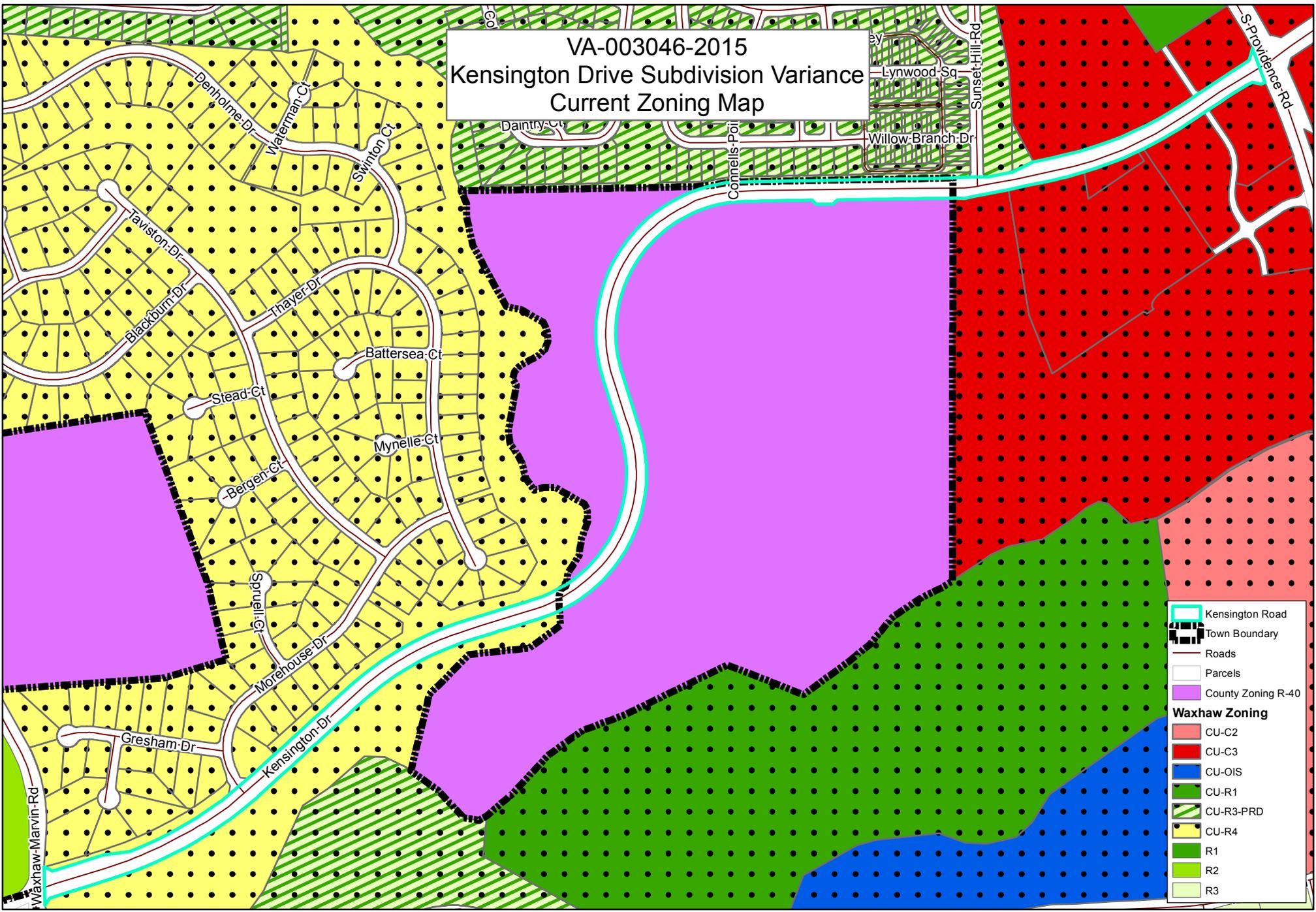


- Roads
- Kensington Road
- Town Boundary
- Parcels

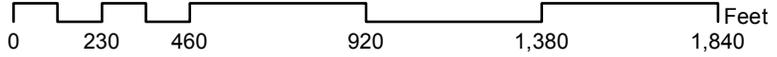
Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



VA-003046-2015
 Kensington Drive Subdivision Variance
 Current Zoning Map

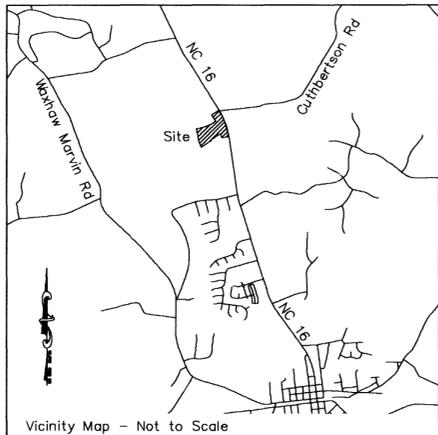


| | |
|----------------------|--------------------|
| | Kensington Road |
| | Town Boundary |
| | Roads |
| | Parcels |
| | County Zoning R-40 |
| Waxhaw Zoning | |
| | CU-C2 |
| | CU-C3 |
| | CU-OIS |
| | CU-R1 |
| | CU-R3-PRD |
| | CU-R4 |
| | R1 |
| | R2 |
| | R3 |



Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.





- Notes:
- Deed Reference(s) - DB 2069-66, 69
 - Tax Parcel ID - 06162005, 06162005A
 - Current Owner - Sandler Commercial at Union LLC, Sandler at Union LLC
 - All bearings are NC Grid bearings.
 - All distances are shown horizontal.
 - Grid distance = Horizontal distance X Combined Grid Factor (0.99985982)
 - Area - Total area: ±20.996 acres
 Tract 1: ±10.219 acres
 Tract 2: ±2.499 acres
 Tract 3: ±0.404 acres
 Outparcel 1: ±1.347 acres
 Outparcel 2: ±1.815 acres
 Outparcel 3: ±0.858 acres
 Outparcel 4: ±1.137 acres
 Right of Way: ±2.566 acres
 - Areas have been determined by coordinate computation.
 - Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
 - Zoning - R-40
 - The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.

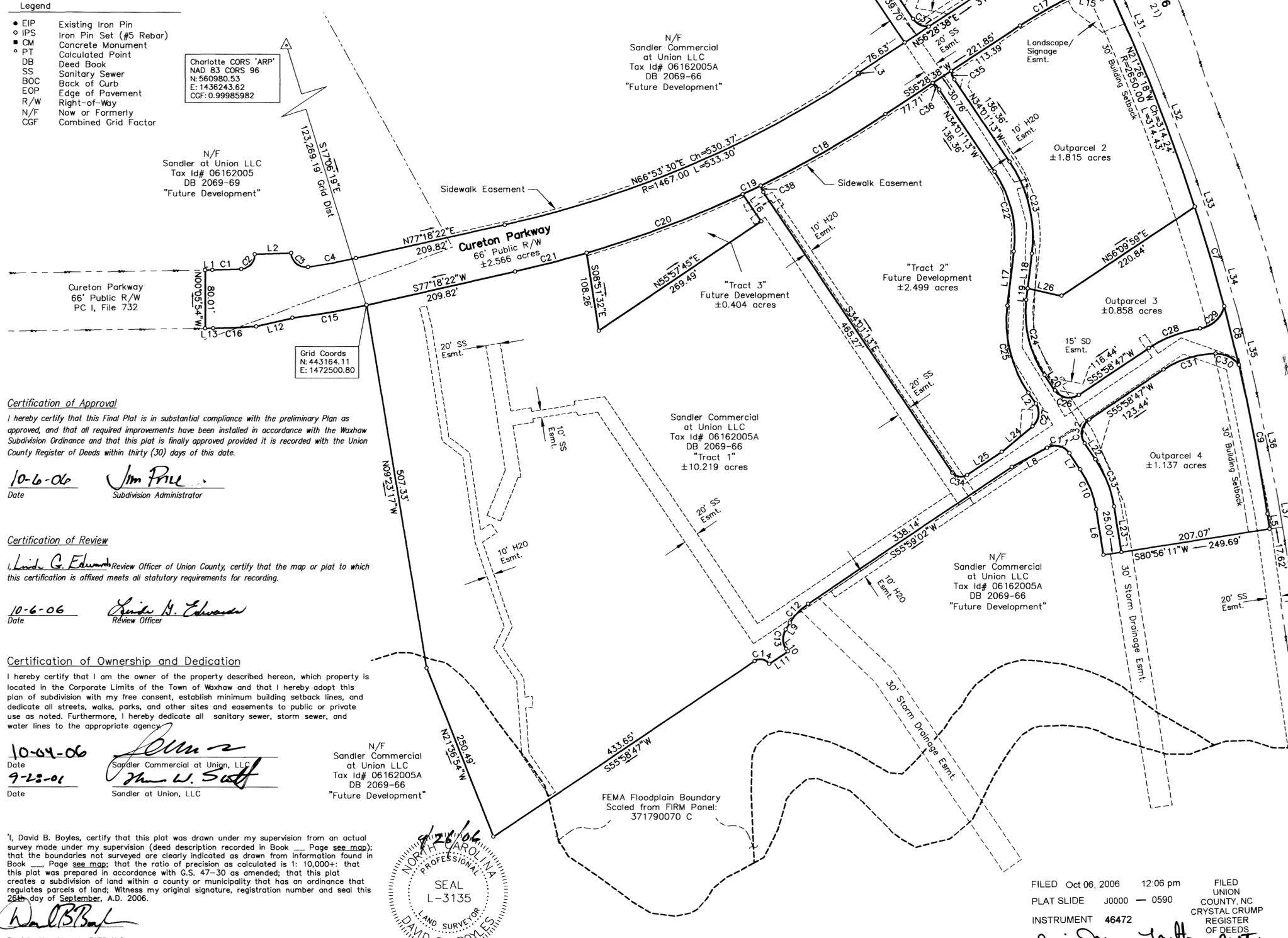
Vicinity Map - Not to Scale

- Legend
- EIP Existing Iron Pin
 - IPS Iron Pin Set (#5 Rebar)
 - CM Concrete Monument
 - PT Calculated Point
 - DB Deed Book
 - SS Sanitary Sewer
 - BOC Back of Curb
 - EOP Edge of Pavement
 - R/W Right-of-Way
 - N/F Now or Formerly
 - CGF Combined Grid Factor

Charlotte CORS 'ARP'
 NAD 83 CORS 96
 N: 560980.53
 E: 1436243.62
 CGF: 0.99985982

N/F
 Sandler at Union LLC
 Tax Id# 06162005
 DB 2069-69
 "Future Development"

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"



| CURVE TABLE | | | | |
|-------------|--------|---------|--------|-------------|
| CURVE | LENGTH | RADIUS | CHORD | BEARING |
| C1 | 39.89 | 960.00 | 39.89 | N87°55'15"E |
| C2 | 30.62 | 20.00 | 27.71 | N42°52'24"E |
| C3 | 34.11 | 20.00 | 30.13 | S49°12'22"E |
| C4 | 67.05 | 967.00 | 67.04 | N79°17'34"E |
| C5 | 202.75 | 2635.00 | 202.70 | N29°52'53"W |
| C6 | 130.57 | 2635.00 | 130.56 | N26°15'27"W |
| C7 | 142.73 | 2650.00 | 142.72 | N16°29'46"W |
| C8 | 83.50 | 2650.00 | 83.50 | N14°33'01"W |
| C9 | 209.33 | 2650.00 | 209.27 | N10°53'05"W |
| C10 | 59.89 | 137.50 | 59.42 | N21°32'31"W |
| C11 | 34.61 | 23.50 | 31.57 | N78°12'54"W |
| C12 | 36.86 | 87.50 | 36.58 | S43°54'47"W |
| C13 | 28.17 | 24.50 | 26.64 | S01°05'13"W |
| C14 | 22.78 | 14.50 | 20.51 | N79°01'13"W |
| C15 | 103.43 | 1033.00 | 103.38 | S80°10'28"W |
| C16 | 58.28 | 1040.00 | 58.27 | S87°28'42"W |
| C17 | 79.68 | 652.00 | 79.63 | S59°58'41"W |
| C18 | 198.56 | 1633.00 | 198.43 | N60°11'16"E |
| C19 | 27.26 | 1633.00 | 27.26 | N64°24'29"E |
| C20 | 229.77 | 1633.00 | 229.55 | N69°12'40"E |
| C21 | 101.71 | 1633.00 | 101.69 | N75°24'20"E |
| C22 | 115.94 | 162.50 | 113.50 | N13°34'49"W |
| C23 | 133.78 | 187.50 | 130.96 | N13°34'49"W |
| C24 | 108.91 | 152.50 | 106.61 | S13°33'39"E |
| C25 | 126.64 | 177.50 | 123.98 | S13°34'49"E |
| C26 | 36.91 | 23.50 | 33.23 | S79°01'13"E |
| C27 | 34.63 | 23.43 | 31.56 | N08°10'11"E |
| C28 | 76.33 | 168.00 | 75.68 | S68°59'47"W |
| C29 | 48.25 | 39.50 | 45.31 | N47°00'58"E |
| C30 | 37.17 | 39.50 | 35.81 | N63°57'23"W |
| C31 | 76.28 | 132.00 | 75.22 | S72°32'03"W |
| C32 | 36.91 | 23.50 | 33.23 | S10°58'47"W |
| C33 | 70.78 | 162.50 | 70.22 | N21°32'31"W |
| C34 | 23.56 | 15.00 | 21.21 | S79°01'09"E |
| C35 | 12.86 | 24.50 | 12.71 | S19°13'56"E |
| C36 | 12.95 | 25.43 | 12.81 | N45°20'11"W |
| C37 | 25.23 | 24.50 | 24.13 | S63°01'24"E |
| C38 | 9.87 | 24.50 | 9.81 | S22°28'38"E |

| LINE TABLE | | |
|------------|--------|-------------|
| LINE | LENGTH | BEARING |
| L1 | 9.93 | N89°06'40"E |
| L2 | 50.01 | N88°01'08"E |
| L3 | 2.00 | N33°31'22"W |
| L4 | 15.00 | S65°16'16"W |
| L5 | 20.99 | N08°22'47"W |
| L6 | 63.90 | N09°03'49"W |
| L7 | 26.83 | N34°01'13"W |
| L8 | 54.93 | S61°26'18"W |
| L9 | 10.71 | S31°50'47"W |
| L10 | 4.38 | S34°01'13"E |
| L11 | 31.00 | S55°58'47"W |
| L12 | 51.18 | S76°35'07"W |
| L13 | 11.03 | S89°06'40"W |
| L14 | 44.65 | N14°33'47"E |
| L15 | 36.72 | N78°50'59"W |
| L16 | 45.37 | N34°01'13"W |
| L17 | 74.90 | N06°51'35"E |
| L18 | 48.03 | N06°53'56"E |
| L19 | 16.03 | N06°53'56"E |
| L20 | 25.72 | N34°01'13"W |
| L21 | 17.93 | N34°01'13"W |
| L22 | 26.47 | S34°01'13"E |
| L23 | 63.90 | S09°03'49"E |
| L24 | 54.93 | N50°31'16"E |
| L25 | 57.24 | N55°57'21"E |
| L26 | 47.52 | S77°40'01"E |
| L27 | 52.65 | S31°35'56"E |
| L28 | 73.24 | S31°35'56"E |
| L29 | 110.58 | S28°39'26"E |
| L30 | 86.44 | S26°06'21"E |
| L31 | 126.81 | S23°24'17"E |
| L32 | 144.33 | S21°17'11"E |
| L33 | 113.66 | S18°36'00"E |
| L34 | 106.95 | S16°08'18"E |
| L35 | 99.85 | S13°26'39"E |
| L36 | 155.84 | S11°16'44"E |
| L37 | 42.20 | S09°17'03"E |
| L38 | 8.22 | S63°28'44"W |

Certification of Approval

I hereby certify that this Final Plat is in substantial compliance with the preliminary Plan as approved, and that all required improvements have been installed in accordance with the Waxhaw Subdivision Ordinance and that this plat is finally approved provided it is recorded with the Union County Register of Deeds within thirty (30) days of this date.

10-6-06 *Jim Price*
 Date Subdivision Administrator

Certification of Review

I, *Linda G. Edwards*, Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

10-6-06 *Linda G. Edwards*
 Date Review Officer

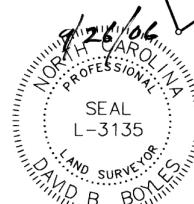
Certification of Ownership and Dedication

I hereby certify that I am the owner of the property described hereon, which property is located in the Corporate Limits of the Town of Waxhaw and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the appropriate agency.

10-04-06 *John W. Saff*
 Date Sandler Commercial at Union, LLC
 9-23-01
 Date Sandler at Union, LLC

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"

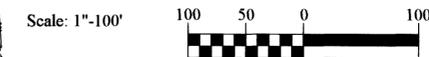
I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ___ Page ___ map); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ___ Page ___ map; that the ratio of precision as calculated is 1:10,000+; that this plat was prepared in accordance with G.S. 47-30 as amended; that this plat creates a subdivision of land within a county or municipality that has an ordinance that regulates parcels of land; Witness my original signature, registration number and seal this 26th day of September, A.D. 2006.



Registration No.: L-3135 N.C.

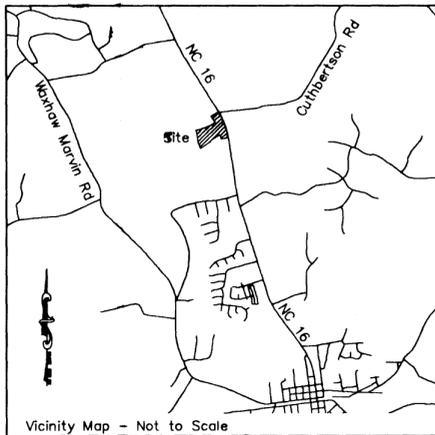
Final Plat for Curton Retail Phase 1 Map 1 Town of Waxhaw, Jackson Township, Union County, North Carolina

LandDesign Surveying Phone: (704) 376-7777
 Fax: (704) 376-2448
 223 North Graham St.
 Charlotte, NC 28202



Date: September 26, 2006
 Project Number: 4105080
 Revision 1:
 Revision 2:

FILED Oct 06, 2006 12:06 pm
 PLAT SLIDE J0000 - 0590
 INSTRUMENT 46472
 FILED UNION COUNTY, NC
 CRYSTAL CRUMP REGISTER OF DEEDS
By: Joyce Latta - cert



- Notes:**
- Deed Reference(s) - DB 2069-66, PC J File 827
 - Tax Parcel ID - 06162005A
 - Current Owner - Sandler Commercial at Union LLC
 - All bearings are NC Grid bearings.
 - All distances are shown horizontal.
 - Grid distance = Horizontal distance X Combined Grid Factor (0.99985982)
 - Area - Total area: ±20.996 acres
 Tract 1: ±10.219 acres
 Tract 2: ±2.499 acres
 Tract 3: ±0.404 acres
 Outparcel 1: ±1.347 acres
 Outparcel 2: ±1.815 acres
 Outparcel 3: ±0.858 acres
 Outparcel 4: ±1.137 acres
 Right of Way: ±2.566 acres
 - Areas have been determined by coordinate computation.
 - Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
 - Zoning - R-40
 - The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.
 - The offer of dedication to public use set forth in the Certification of Ownership and Dedication contained in this Final Plat shall, with respect to streets, walks and parks, be limited solely to the public right of way of Kensington Drive as shown hereon. Any other streets, walks or parks shown hereon are intended to remain private and are expressly excluded from said offer of dedication.
 - This Final Plat is intended to replace and supersede that certain Final Plat for Cureton Retail recorded at Cab. J. File 590 in the Union County registry.

- Legend**
- EIP Existing Iron Pin
 - IPS Iron Pin Set (#5 Rebar)
 - CM Concrete Monument
 - PT Calculated Point
 - DB Deed Book
 - SS Sanitary Sewer
 - ST Sight Triangle
 - BOC Back of Curb
 - EOP Edge of Pavement
 - PSD Public Storm Drainage
 - R/W Right-of-Way
 - N/F Now or Formerly
 - CGF Combined Grid Factor

Charlotte CORS 'ARP'
 NAD 83 CORS 96
 N: 560980.53
 E: 1436243.62
 CGF: 0.99985982

N/F
 Sandler at Union LLC
 Tax Id# 06162005
 DB 2069-69
 "Future Development"

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"

Sandler Commercial
 at Union LLC
 Tax Id# 06162005C
 DB 2069-66
 "Tract 1"
 ±10.219 acres

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"

Certification of Approval
 I hereby certify that this Final Plat is in substantial compliance with the preliminary Plan as approved, and that all required improvements have been installed in accordance with the Waxhaw Subdivision Ordinance and that this plat is finally approved provided it is recorded with the Union County Register of Deeds within thirty (30) days of this date.

9/19/2007
 Date
 Subdivision Administrator

Certification of Review
 I, Gas Nichols, Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

9/21/07
 Date
 Review Officer

Certification of Ownership and Dedication
 I hereby certify that I am the owner of the property described hereon, which property is located in the Corporate Limits of the Town of Waxhaw and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the appropriate agency.

8/27/07
 Date
 Sandler Commercial at Union, LLC

8/28/07
 Date
 CVS 75280 NC, LLC

Department of Transportation
 Division of Highways

Right of Way on NC 16 (Providence Road) is hereby dedicated to and accepted by the North Carolina Department of Transportation.

Approved: [Signature] 9/4/07
 District Engineer Date

I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ___ Page ___ map); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ___ Page ___ map; that the ratio of precision as calculated is 1:10,000+; that this plat was prepared in accordance with G.S. 47-30 as amended; that this plat creates a subdivision of land within a county or municipality that has an ordinance that regulates parcels of land; Witness my original signature, registration number and seal this 27th day of August, A.D. 2007.

[Signature]
 Registration No.: L-3135 N.C.



CURVE TABLE

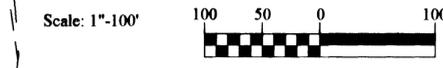
| CURVE | LENGTH | RADIUS | CHORD | BEARING |
|-------|--------|---------|--------|-------------|
| C1 | 39.89 | 960.00 | 39.89 | N87°55'15"E |
| C2 | 30.62 | 20.00 | 27.71 | N42°52'24"E |
| C3 | 34.11 | 20.00 | 30.13 | S49°51'22"E |
| C4 | 67.05 | 967.00 | 67.04 | N79°17'34"E |
| C5 | 202.75 | 2635.00 | 202.70 | N29°52'53"W |
| C6 | 130.57 | 2635.00 | 130.56 | N26°15'27"W |
| C7 | 142.73 | 2650.00 | 142.72 | N16°29'46"W |
| C8 | 83.50 | 2650.00 | 83.50 | N14°03'01"W |
| C9 | 209.33 | 2650.00 | 209.27 | N10°53'05"W |
| C10 | 59.89 | 137.50 | 59.42 | N21°32'31"W |
| C11 | 34.61 | 23.50 | 31.57 | N76°12'54"W |
| C12 | 36.86 | 87.50 | 36.58 | S43°54'47"W |
| C13 | 28.17 | 24.50 | 26.64 | S01°05'13"E |
| C14 | 22.78 | 14.50 | 20.51 | N79°01'13"W |
| C15 | 103.43 | 1033.00 | 103.38 | S80°10'28"W |
| C16 | 59.28 | 1040.00 | 59.27 | S87°28'42"W |
| C17 | 79.68 | 652.00 | 79.63 | S59°58'41"W |
| C18 | 198.56 | 1533.00 | 198.43 | N60°11'16"E |
| C19 | 27.26 | 1533.00 | 27.26 | N64°24'29"E |
| C20 | 229.77 | 1533.00 | 229.55 | N69°12'40"E |
| C21 | 101.71 | 1533.00 | 101.69 | N75°24'20"E |
| C22 | 115.94 | 162.50 | 113.50 | N13°34'49"W |
| C23 | 133.78 | 187.50 | 130.96 | N13°34'49"W |
| C24 | 108.91 | 152.50 | 106.61 | S13°33'39"E |
| C25 | 126.84 | 177.50 | 123.98 | S13°34'49"E |
| C26 | 36.91 | 23.50 | 33.23 | S79°01'13"E |
| C27 | 34.63 | 23.43 | 31.56 | N08°10'11"E |
| C28 | 76.33 | 168.00 | 75.68 | S68°59'47"W |
| C29 | 48.25 | 39.50 | 45.31 | N47°00'58"E |
| C30 | 37.17 | 39.50 | 35.81 | N63°57'23"W |
| C31 | 76.28 | 132.00 | 75.22 | S72°32'03"W |
| C32 | 36.91 | 23.50 | 33.23 | S10°58'47"W |
| C33 | 70.78 | 162.50 | 70.22 | N21°32'31"W |
| C34 | 23.56 | 15.00 | 21.21 | S79°01'09"E |
| C35 | 12.86 | 24.50 | 12.71 | S19°13'56"E |
| C36 | 12.95 | 25.43 | 12.81 | N45°20'11"W |
| C37 | 25.23 | 24.50 | 24.13 | S63°01'24"E |
| C38 | 9.87 | 24.50 | 9.81 | S22°28'38"E |

LINE TABLE

| LINE | LENGTH | BEARING |
|------|--------|-------------|
| L1 | 9.93 | N89°06'40"E |
| L2 | 50.01 | N88°01'08"E |
| L3 | 2.00 | N33°31'22"W |
| L4 | 15.00 | S65°16'16"W |
| L5 | 20.99 | N08°22'47"W |
| L6 | 63.90 | N08°33'49"W |
| L7 | 26.83 | N34°01'13"W |
| L8 | 54.93 | S61°26'18"W |
| L9 | 10.71 | S31°50'47"W |
| L10 | 4.38 | S34°01'13"E |
| L11 | 31.00 | S55°58'47"W |
| L12 | 51.18 | S76°35'07"W |
| L13 | 11.03 | S89°06'40"W |
| L14 | 44.65 | N14°33'47"E |
| L15 | 36.72 | N78°50'59"W |
| L16 | 45.37 | N34°01'13"W |
| L17 | 74.90 | N08°51'35"E |
| L18 | 48.03 | N08°53'56"E |
| L19 | 16.03 | N08°53'56"E |
| L20 | 25.72 | N34°01'13"W |
| L21 | 17.93 | N34°01'13"W |
| L22 | 26.47 | S34°01'13"E |
| L23 | 63.90 | S09°03'49"E |
| L24 | 54.93 | N50°31'16"E |
| L25 | 57.24 | N55°57'21"E |
| L26 | 47.52 | S77°40'01"E |
| L27 | 52.65 | S31°35'56"E |
| L28 | 73.24 | S31°35'56"E |
| L29 | 110.58 | S28°39'26"E |
| L30 | 86.44 | S26°06'21"E |
| L31 | 126.81 | S23°24'17"E |
| L32 | 144.33 | S21°17'11"E |
| L33 | 113.66 | S18°36'00"E |
| L34 | 106.95 | S16°08'18"E |
| L35 | 99.85 | S13°26'39"E |
| L36 | 155.84 | S11°16'44"E |
| L37 | 42.20 | S09°17'03"E |
| L38 | 8.22 | S63°28'44"W |

Final Plat for Cureton Retail Phase 1 Map 1 - Revised
 Town of Waxhaw
 Jackson Township,
 Union County,
 North Carolina

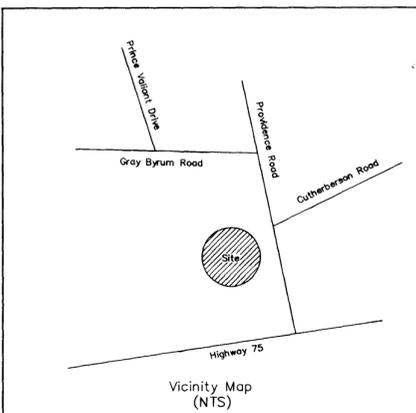
LandDesign Surveying
 Phone: (704) 376-7777
 Fax: (704) 376-2448
 223 North Graham St.
 Charlotte, NC 28202



Date: September 26, 2006
 Project Number: 4105080
 Revision 1: 8/27/07
 To clarify easements, and add notes 12&13

FILED Sep 21, 2007 12:05 pm
 PLAT SLIDE 0000K - 0225
 INSTRUMENT 42358
 CRYSTAL O. CUMMINGS
 REGISTER OF DEEDS

E-732



Filed for Record in: 732
 Plat Cab. File: 0-4-2005
 Date: 9:50 A.M.
 CRISIA L. POHME Register of Deeds
 Union County, Monroe, North Carolina
 By: Serena Cicca
Deputy

Charlotte CORS
 N: 560980.53
 1436243.62

Certificate of Ownership and Dedication

I (We) hereby certify that I (We) am/are the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of Union County, that I hereby freely adopt this plan of subdivision and hereby establish all lots, with minimum building setback lines, and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be declared to be dedicated for any other public use authorized by law when such other use is approved by the Board of Commissioners in the public interest.

Date: 4/9/05 Owner: Paul A. Standridge

State of North Carolina
 County of Union

I, Lus Nichols, Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
Lus Nichols 8/9/05
 Review Officer

LEGEND

- EIP EXISTING IRON PIN
- IPS IRON PIN SET (#5 REBAR)
- CM CONCRETE MONUMENT
- PT CALCULATED POINT
- UTILITY POLE
- ☆ LIGHT POLE
- ou— OVERHEAD UTILITY
- x— FENCE LINE
- G— GAS LINE
- UT— UNDERGROUND TELEPHONE
- SIGN
- ⊙ SANITARY MANHOLE
- CI CURB INLET
- DI DRAIN INLET
- FH FIRE HYDRANT
- WM WATER METER
- WV WATER VALVE
- BOC BACK OF CURB
- EOP EDGE OF PAVEMENT
- R/W RIGHT-OF-WAY
- N/F NOW OR FORMERLY
- CGF COMBINED GRID FACTOR

NOTES:

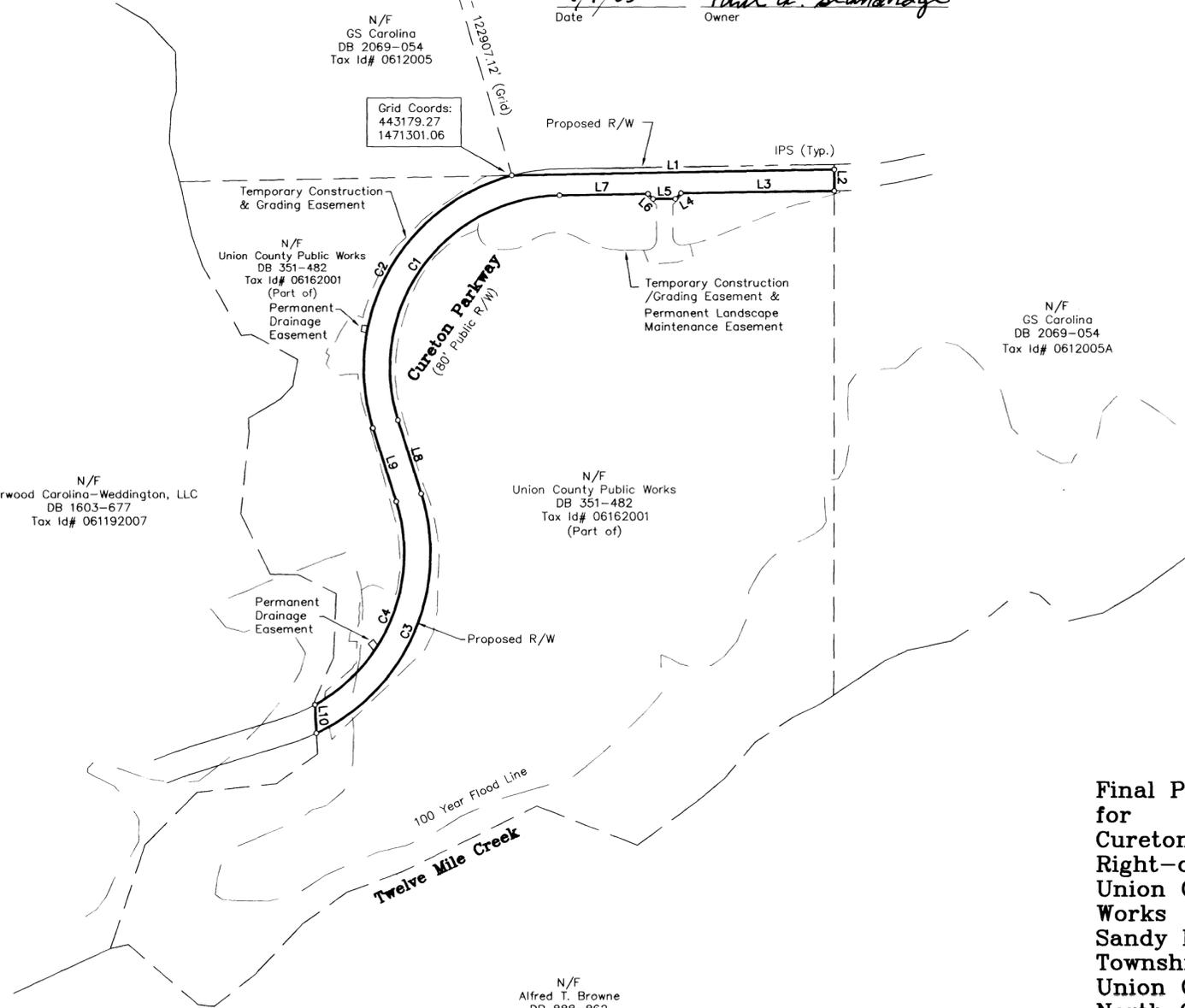
1. Deed Reference(s) - Deed Book 351 Page 482
2. Tax Parcel ID - 06162001
3. Current Owner - Union County Public Works
4. All bearings are NC Grid bearings.
5. All distances are shown horizontal.
6. Grid distance = Horizontal distance X Combined Grid Factor (0.99985982)
7. Area - 5.040 Acres
8. Areas have been determined by coordinate computation.
9. Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
10. Zoning - R-40
11. This property may be subject to additional restrictions, easements, rights of way, utilities, covenants and restrictions that may be of record.
12. This property is located in a special Flood Hazard Area as determined by the Department of Housing and Urban Development. Reference Community Panel Number: 37179 0070C Dated 7-5-94
13. This survey was performed without benefit of a Title Commitment Report. LandDesign Surveying, Inc. does not claim that all matters of record which may affect the subject property are shown hereon.
14. The location of underground utilities shown on this map are approximate, based on information provided by others or by field location. Utility locations as shown hereon are intended for planning only. Actual location, size or depth of line should be verified with the individual utility company before construction.
15. The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.

N/F
 Starwood Carolina-Weddington, LLC
 DB 1603-677
 Tax Id# 061192007

N/F
 Union County Public Works
 DB 351-482
 Tax Id# 06162001
 (Part of)

N/F
 GS Carolina
 DB 2069-054
 Tax Id# 0612005A

N/F
 Alfred T. Browne
 DB 888-862
 Tax Id# 06165003A



| LINE | LENGTH | BEARING |
|------|--------|-------------|
| L1 | 978.90 | N88°59'22"E |
| L2 | 80.01 | N00°05'54"W |
| L3 | 465.30 | N89°06'40"E |
| L4 | 23.91 | N44°32'18"E |
| L5 | 67.45 | N90°00'00"E |
| L6 | 22.10 | S45°28'59"E |
| L7 | 268.54 | N89°06'40"E |
| L8 | 235.30 | N17°31'52"W |
| L9 | 235.30 | N17°31'52"W |
| L10 | 87.36 | N03°12'22"W |

| CURVE | LENGTH | RADIUS | CHORD | BEARING |
|-------|--------|--------|--------|-------------|
| C1 | 977.16 | 525.00 | 842.10 | S35°47'24"W |
| C2 | 980.50 | 605.00 | 876.66 | N28°53'51"E |
| C3 | 869.64 | 605.00 | 796.68 | N23°38'53"E |
| C4 | 721.95 | 525.00 | 666.39 | N21°51'50"E |

I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 351, Page 482); that the boundaries not surveyed are clearly indicated as drawn from information found in Book See, Page Map; that the ratio of precision as calculated is 1: 10,000+ this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 28th day of Oct., A.D. 2004. This Plat creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.



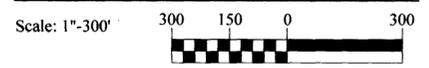
David B. Boyles
 Land Surveyor

L-3135
 Registration No.

**Final Plat for
 Cureton Parkway
 Right-of-Way
 Union County Public
 Works
 Sandy Ridge
 Township
 Union County,
 North Carolina**

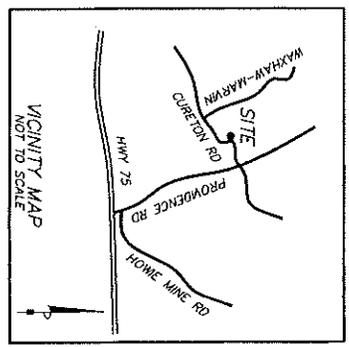


223 North Graham Street
 Charlotte, NC 28202
 Phone: (704) 376-7777
 Fax: (704) 376-2448



Date: September 7, 2004
 Project Number: 4103019
 Revision 1:
 Revision 2:

CABI FILE 732



1. I, **Richard L. Johnson**, JUNIOR COUNTY PLANNING DIVISION DIRECTOR, CERTIFY THAT THIS PLAT DOES NOT CONTRADICT ANY RECORDING RECORDS OF THIS COUNTY. THE COUNTY HAS NOT REVIEWED THIS PLAT FOR COMPLIANCE WITH APPLICABLE ZONING AND SUBDIVISION REGULATIONS (E.G. STREET STANDARDS), PROPOSING RECORDING SHOULD BE MADE WITHIN 30 DAYS FOR THE RECORDING DIVISION TO REVIEW. THIS PLAT DOES NOT MEET APPLICABLE COUNTY STANDARDS, THIS APPROVAL IS GRANTED BY RECORD BEFORE **12-30-14**.

PLANNING DIVISION
DATE: **12-30-14**

Richard L. Johnson
REVIEW OFFICER OF JUNIOR COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS RECORDING IS APPLIED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING OFFICER
Richard L. Johnson
DATE: **12-30-14**

THE PURPOSE OF THIS PLAT IS TO REVEAL EXISTING DRIVE LOCATIONS OF THE SANITARY SEWER MAINS. THE PLAT SUPERSEDES THE PLAT PREVIOUSLY FILED BY PLAT COMMENT NO. 12-22-14 AT THE JUNIOR COUNTY REGISTER.

1. I, **Richard L. Johnson**, JUNIOR COUNTY PLANNING DIVISION DIRECTOR, CERTIFY THAT THIS PLAT DOES NOT CONTRADICT ANY RECORDING RECORDS OF THIS COUNTY. THE COUNTY HAS NOT REVIEWED THIS PLAT FOR COMPLIANCE WITH APPLICABLE ZONING AND SUBDIVISION REGULATIONS (E.G. STREET STANDARDS), PROPOSING RECORDING SHOULD BE MADE WITHIN 30 DAYS FOR THE RECORDING DIVISION TO REVIEW. THIS PLAT DOES NOT MEET APPLICABLE COUNTY STANDARDS, THIS APPROVAL IS GRANTED BY RECORD BEFORE **12-30-14**.

PLANNING DIVISION
DATE: **12-30-14**

Richard L. Johnson
REVIEW OFFICER OF JUNIOR COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS RECORDING IS APPLIED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING OFFICER
Richard L. Johnson
DATE: **12-30-14**

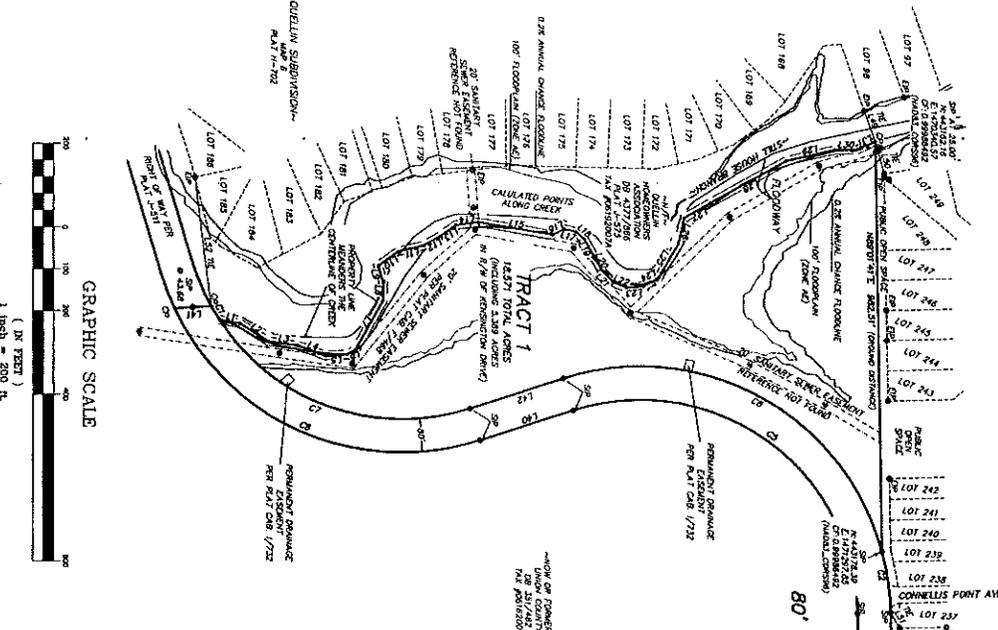
| | | |
|----------|-----------|------------------|
| DATE | REVISIONS | SCALE: 1" = 200' |
| 12/18/14 | COMMENTS | 2012/BAT/CURETON |
| | | 2012/C/CURETON |
| | | DRAWN BY: TW |
| | | CHECKED BY: HW |
| | | FIELD WORK: GWRH |
| | | OCTOBER 1, 2012 |

1. I HEREBY CERTIFY THAT JUNIOR COUNTY IS THE OWNER OF THE PROPERTY DESCRIBED HEREIN AND THAT JUNIOR COUNTY FREELY AGREES TO THIS PLAT OF SUBDIVISION AND AUTHORIZES THE PUBLIC USE OF THE TOWNION DRIVE 80' EXISTING PUBLIC RIGHT OF WAY, AS SHOWN ON THIS PLAT.

Richard L. Johnson
DATE: **12-31-14**

JUNIOR COUNTY
403 UNION STREET
MORRIS, NC 28112

- NOTES:
1. IRON PINS SET AT ALL CORNERS UNLESS OTHERWISE NOTED.
 2. PROPERTY ZONES R-10
 3. DISTANCES ARE SUBJECT TO AN INTERPRETATION FROM THE ZONING BOARD.
 4. DEED REFERENCE DE 251 PG 452.
 5. BOUNDARY SURVEY ONLY THROUGH POINTS AS SHOWN.
 6. A PORTION OF THIS PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE FLOOD RESISTANCE RATE HAZ (FIRM NO. 21040000L WITH A DATE OF DECEMBER 16, 2006).
 7. THIS PROPERTY MAY BE SUBJECT TO ADDITIONAL RECORDS OR UNRECORDED EASEMENTS, RIGHTS-OF-WAY OR RESTRICTIVE COVENANTS, OTHER THAN SHOWN. SURVEY MADE WITHOUT THE BENEFIT OF A TITLE EXAMINATION.
 8. AREA COMPUTED BY COORDINATE METHOD.
 9. NO NECS ADJACENT ROAD WITHIN 2000'.
 10. UTILITY LOCATIONS SHOWN ARE LOCATED BASED ON SITE CONDITIONS AT THE TIME OF SURVEY. CONTRACTORS ARE TO MAKE ALL UTILITIES ACCURATELY MARKED PRIOR TO CONSTRUCTION.
 11. ANY CONSTRUCTION IMPOSED BY THE FLOODING REGULATIONS.



GRAPHIC SCALE
(IN FEET)
1 inch = 200 ft

| CURVE I | RADIUS | LENGTH | CHORD |
|---------|--------|--------|--------------|
| C1 | 525.00 | 38.37 | 189.0104'-E |
| C2 | 605.58 | 147.93 | 188.20013'-E |
| C3 | 515.00 | 958.56 | 535.94724'-W |
| C4 | 815.00 | 898.04 | 523.50209'-W |
| C5 | 525.00 | 977.17 | 143.51942'-E |
| C6 | 525.00 | 895.94 | 121.06531'-E |
| C7 | 525.00 | 851.05 | 119.44523'-E |
| C8 | 525.00 | 487.09 | 103.44102'-E |
| C9 | 515.00 | 487.09 | 103.44102'-E |
| C10 | 515.00 | 458.81 | 88.33522'-W |
| C11 | 515.00 | 458.81 | 88.33522'-W |

LEGEND

- SET IRON PIN
- EXISTING IRON PIN
- ○ CALCULATED POINT
- SMN SANITARY SEWER MAINLINE

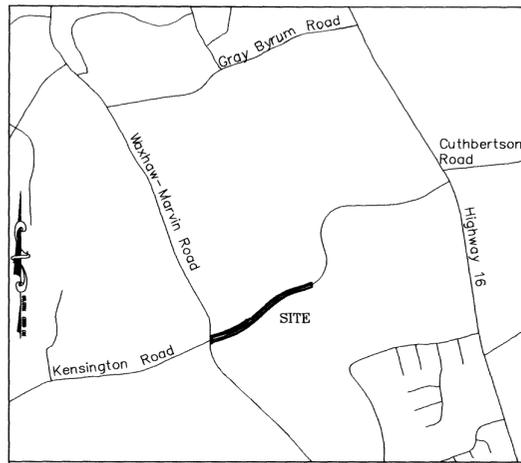
| LINE | BEARING | LENGTH |
|------|--------------|--------|
| L1 | N89°10'04"E | 38.37 |
| L2 | N88°20'03"E | 147.93 |
| L3 | S53°47'24"W | 958.56 |
| L4 | S23°50'20"W | 898.04 |
| L5 | N43°51'34"E | 977.17 |
| L6 | N21°06'53"E | 895.94 |
| L7 | N19°44'52"E | 851.05 |
| L8 | N103°44'10"E | 487.09 |
| L9 | S83°35'22"W | 458.81 |
| L10 | S83°35'22"W | 458.81 |
| L11 | N89°10'04"E | 38.37 |
| L12 | N88°20'03"E | 147.93 |
| L13 | S53°47'24"W | 958.56 |
| L14 | S23°50'20"W | 898.04 |
| L15 | N43°51'34"E | 977.17 |
| L16 | N21°06'53"E | 895.94 |
| L17 | N19°44'52"E | 851.05 |
| L18 | N103°44'10"E | 487.09 |
| L19 | S83°35'22"W | 458.81 |
| L20 | S83°35'22"W | 458.81 |
| L21 | N89°10'04"E | 38.37 |
| L22 | N88°20'03"E | 147.93 |
| L23 | S53°47'24"W | 958.56 |
| L24 | S23°50'20"W | 898.04 |
| L25 | N43°51'34"E | 977.17 |
| L26 | N21°06'53"E | 895.94 |
| L27 | N19°44'52"E | 851.05 |
| L28 | N103°44'10"E | 487.09 |
| L29 | S83°35'22"W | 458.81 |
| L30 | S83°35'22"W | 458.81 |
| L31 | N89°10'04"E | 38.37 |
| L32 | N88°20'03"E | 147.93 |
| L33 | S53°47'24"W | 958.56 |
| L34 | S23°50'20"W | 898.04 |
| L35 | N43°51'34"E | 977.17 |
| L36 | N21°06'53"E | 895.94 |
| L37 | N19°44'52"E | 851.05 |
| L38 | N103°44'10"E | 487.09 |
| L39 | S83°35'22"W | 458.81 |
| L40 | S83°35'22"W | 458.81 |
| L41 | N89°10'04"E | 38.37 |
| L42 | N88°20'03"E | 147.93 |
| L43 | S53°47'24"W | 958.56 |
| L44 | S23°50'20"W | 898.04 |
| L45 | N43°51'34"E | 977.17 |
| L46 | N21°06'53"E | 895.94 |
| L47 | N19°44'52"E | 851.05 |
| L48 | N103°44'10"E | 487.09 |
| L49 | S83°35'22"W | 458.81 |
| L50 | S83°35'22"W | 458.81 |
| L51 | N89°10'04"E | 38.37 |
| L52 | N88°20'03"E | 147.93 |
| L53 | S53°47'24"W | 958.56 |
| L54 | S23°50'20"W | 898.04 |
| L55 | N43°51'34"E | 977.17 |
| L56 | N21°06'53"E | 895.94 |
| L57 | N19°44'52"E | 851.05 |
| L58 | N103°44'10"E | 487.09 |
| L59 | S83°35'22"W | 458.81 |
| L60 | S83°35'22"W | 458.81 |
| L61 | N89°10'04"E | 38.37 |
| L62 | N88°20'03"E | 147.93 |
| L63 | S53°47'24"W | 958.56 |
| L64 | S23°50'20"W | 898.04 |
| L65 | N43°51'34"E | 977.17 |
| L66 | N21°06'53"E | 895.94 |
| L67 | N19°44'52"E | 851.05 |
| L68 | N103°44'10"E | 487.09 |
| L69 | S83°35'22"W | 458.81 |
| L70 | S83°35'22"W | 458.81 |
| L71 | N89°10'04"E | 38.37 |
| L72 | N88°20'03"E | 147.93 |
| L73 | S53°47'24"W | 958.56 |
| L74 | S23°50'20"W | 898.04 |
| L75 | N43°51'34"E | 977.17 |
| L76 | N21°06'53"E | 895.94 |
| L77 | N19°44'52"E | 851.05 |
| L78 | N103°44'10"E | 487.09 |
| L79 | S83°35'22"W | 458.81 |
| L80 | S83°35'22"W | 458.81 |
| L81 | N89°10'04"E | 38.37 |
| L82 | N88°20'03"E | 147.93 |
| L83 | S53°47'24"W | 958.56 |
| L84 | S23°50'20"W | 898.04 |
| L85 | N43°51'34"E | 977.17 |
| L86 | N21°06'53"E | 895.94 |
| L87 | N19°44'52"E | 851.05 |
| L88 | N103°44'10"E | 487.09 |
| L89 | S83°35'22"W | 458.81 |
| L90 | S83°35'22"W | 458.81 |
| L91 | N89°10'04"E | 38.37 |
| L92 | N88°20'03"E | 147.93 |
| L93 | S53°47'24"W | 958.56 |
| L94 | S23°50'20"W | 898.04 |
| L95 | N43°51'34"E | 977.17 |
| L96 | N21°06'53"E | 895.94 |
| L97 | N19°44'52"E | 851.05 |
| L98 | N103°44'10"E | 487.09 |
| L99 | S83°35'22"W | 458.81 |
| L100 | S83°35'22"W | 458.81 |

A SUBDIVISION OF PROPERTY ON
KENSINGTON DRIVE
OWNERS: JUNIOR COUNTY
TOTAL AREA: 18.571 ACRES
SANDY ROSE TOWNSHIP, JUNIOR COUNTY, NORTH CAROLINA

CAROLINA SURVEYORS, INC.
P.O. BOX 287 PIKEVILLE, N.C. 28134 - 6283
RICHIE T. WHITE, JR., MORRIS & SHELLEY - 7800
CERTIFICATE OF REGISTRATION NO. 1100-0000

FILED
JUNIOR COUNTY, NC
INSTRUMENT 34459
DATE 12/18/14
OF RECORD

CRS M File 578



Vicinity Map - Not to Scale

Legend

- EIP Existing Iron Pin
- IPS Iron Pin Set (#5 Rebar)
- R/W Right-of-Way
- N/F Now or Formerly

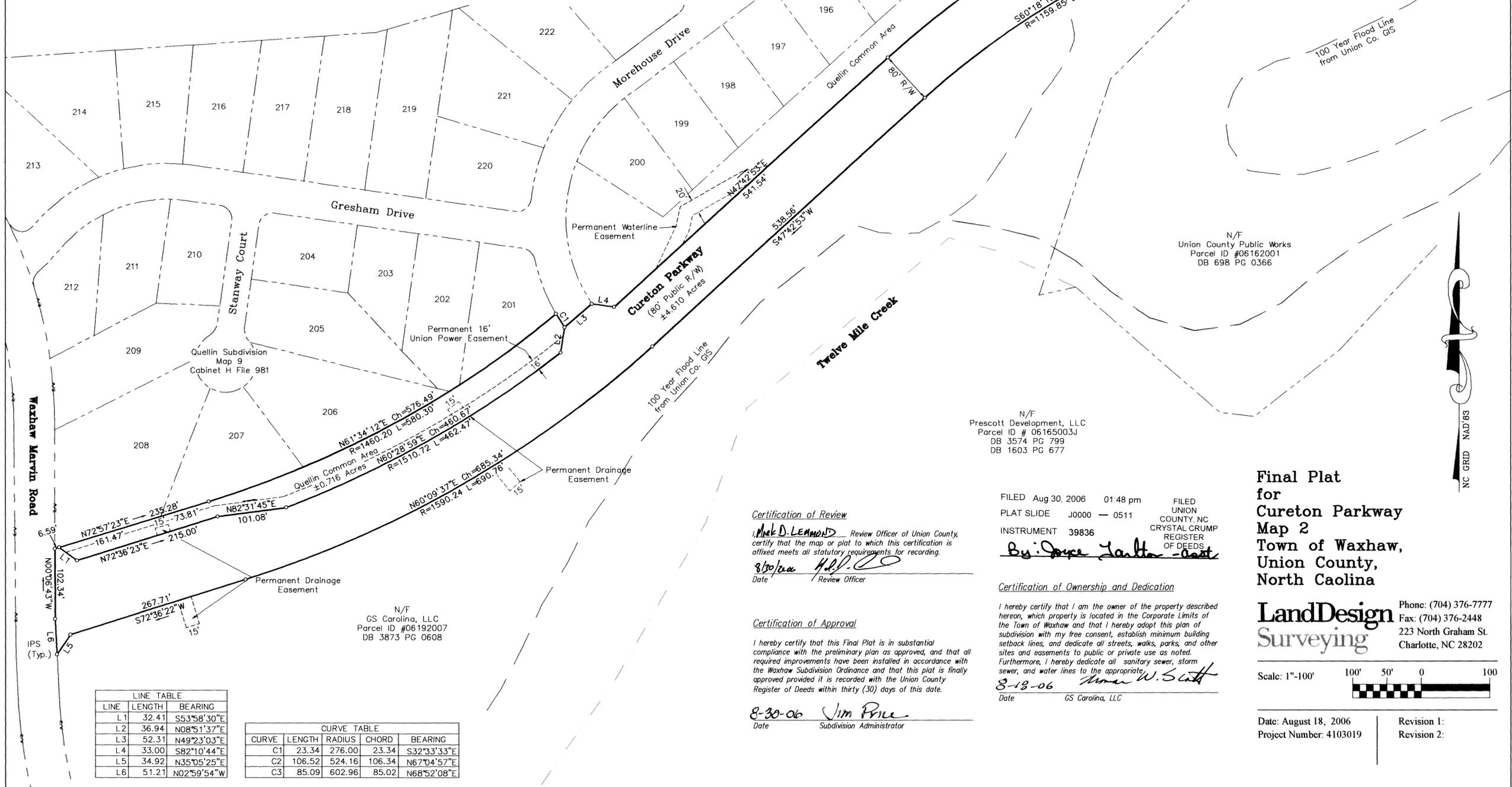
Notes:

1. Deed Reference(s) - DB 3873 PG 0608
2. Tax Parcel ID - 06192007A, & B
3. Current Owner - GS Carolina, LLC
4. All bearings are NC Grid bearings.
5. All distances are shown horizontal.
6. Grid distance = Horizontal distance X Combined Grid Factor (0.999864246)
7. R/W Area - ±4.610 Acres
COS Area - ±0.716 Acres
Total Area - ±5.326 Acres
8. Areas have been determined by coordinate computation.
9. Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
10. Zoning - R-20
11. Portions of this property are located in a special Flood Hazard Area as determined by the Department of Housing and Urban Development. Reference Community Panel Number: 37179C0070 C, Dated: July 5, 1994.
12. This survey was performed without benefit of a Title Commitment Report. LandDesign Surveying, Inc. does not claim that all matters of record which may affect the subject property are shown hereon.
13. The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.

I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book see map, Page ____); that the boundaries not surveyed are clearly indicated as drawn from information found in Book see map, Page ____; that the ratio of precision as calculated is 1: 10,000+ this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 18th day of August, A.D. 2006. This Plat creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.



David B. Boyles
Land Surveyor
L-3135



| LINE | LENGTH | BEARING |
|------|--------|-------------|
| L1 | 32.41 | S53°58'30"E |
| L2 | 36.94 | N08°51'37"E |
| L3 | 52.31 | N49°23'03"E |
| L4 | 33.00 | S82°10'44"E |
| L5 | 34.92 | N35°05'25"E |
| L6 | 51.21 | N02°59'54"W |

| CURVE | LENGTH | RADIUS | CHORD | BEARING |
|-------|--------|--------|--------|-------------|
| C1 | 23.34 | 276.00 | 23.34 | S32°33'33"E |
| C2 | 106.52 | 524.16 | 106.34 | N67°04'57"E |
| C3 | 85.09 | 602.96 | 85.02 | N68°52'08"E |

Certification of Review

Mike D. Lemmond Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
8/30/06 *Mike D. Lemmond*
Date Review Officer

Certification of Approval

I hereby certify that this Final Plat is in substantial compliance with the preliminary plan as approved, and that all required improvements have been installed in accordance with the Waxhaw Subdivision Ordinance and that this plat is finally approved provided it is recorded with the Union County Register of Deeds within thirty (30) days of this date.
8-30-06 *Jim Price*
Date Subdivision Administrator

N/F
Prescott Development, LLC
Parcel ID # 06165003J
DB 3574 PG 799
DB 1603 PG 677

FILED Aug 30, 2006 01:48 pm
PLAT SLIDE J0000 - 0511
INSTRUMENT 39836

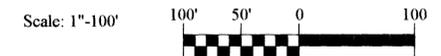
By: Joyce Latta
NORTH CAROLINA REGISTER OF DEEDS

Certification of Ownership and Dedication

I hereby certify that I am the owner of the property described hereon, which property is located in the Corporate Limits of the Town of Waxhaw and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the appropriate.
8-18-06 *Thomas W. Scott*
Date GS Carolina, LLC

Final Plat for Cureton Parkway Map 2 Town of Waxhaw, Union County, North Carolina

LandDesign Surveying Phone: (704) 376-7777
223 North Graham St. Fax: (704) 376-2448
Charlotte, NC 28202



Date: August 18, 2006
Project Number: 4103019
Revision 1:
Revision 2:

**Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
January 20, 2015**

The Waxhaw Planning Board met in a special session Tuesday, January 20, 2015 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Special Called Meeting

1. Call to Order

David Godfrey called the meeting to order at 6:30 pm.

2. Roll Call and Determination of Quorum

A roll call and determination of quorum was made.

Present: Chairman Godfrey, Vice-Chairman Underwood, John Cannamela, Michael Kreimer, Fred Burrell, Staff Rice, Staff Oakley, Interim Manager Mahar, and Recording Secretary Oliver.

Absent: James Mathieson, Thomas Dwyer, Dan Gingrich, and Bob Morgan.

3. Work Session

NONE

4. Unfinished Business

NONE

5. New Business

A. TA-003036-2014 - A request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

Staff Oliver gave a presentation on TA-003036-2014 (see attached).

Chairman Godfrey asked why staff did not propose to remove the minimum required tract size. Staff Oliver explained that staff felt the Board of Commissioners would be more comfortable with a reduction than an elimination of a minimum tract size.

John Cannamela asked if the case was a variance. Staff Oakley stated that it was not a variance.

Staff Oakley explained the history of the text amendment and the reduction to the minimum tract size that was requested by the developer of the Millbridge subdivision and passed in May of 2013.

Fred Burrell stated that he has an issue with reducing the minimum required tract size while the comprehensive plan is being rewritten. He asked what the benefit of reducing the minimum tract size for Planned Residential Developments was for Waxhaw. He stated that he does not understand the logic behind the text amendment. He also stated that the UDO should be streamlined and better thought out.

Staff Oakley explained that the subdivision ordinance is in the process of being rewritten and that Planned Residential Developments will be replaced by cluster subdivisions. She explained the concept of a cluster subdivision and why it promotes smart growth and reduces sprawl.

The text amendment applicant, Mark Fisher, explained the reasoning as to why he proposed the text amendment. He presented some research he gathered about PRD requirements in surrounding communities and all communities that he researched required either no minimum tract size or minimums of 10 or 15 acres.

Fred Burrell asked Mark Fisher what the time frame would be for his proposed development. Mark Fisher stated that it would be about 12 months before construction would begin.

Michael Kreimer stated that he appreciates Staff Oakley's explanation of cluster subdivisions.

Vice-Chairman Underwood motioned to send favorable for TA-003036-2014 to the Board of Commissioners. Chairman Godfrey seconded. The motion passed, (3-2).

Michael Kreimer abstained from voting. An abstention is counted as an affirmative vote.

Fred stated that he feels staff did not give the text amendment enough consideration with regard to the comprehensive plan rewrite. He stated that he feels there may be unintended consequences.

Michael Kreimer stated that he did not have enough information to make a decision, therefore he did not vote.

John Cannamela stated that he was not sure about the numbers and why 20 acres was proposed. He stated that he needs more information to decide whether or not the text amendment is good for Waxhaw.

- B. RZ-003035-2014 - A request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

Staff Rice gave a presentation on RZ-003035-2014 (see attached).

Michael Kreimer asked if the applicant wanted to rezone the property to allow for a light industrial use. Staff Rice stated that the proposed use is for a microbrewery and restaurant. Staff Rice stated that the microbrewery would fall under the classification of light industrial.

Fred Burrell stated that there are several doughnut holes in the Town Center (TC) zoning where Neighborhood Mixed Use (NMX) is in place. Staff Rice stated that during the initial Downtown Code rezoning some of the property owners requested to be zoned to NMX rather than TC.

John Cannamela asked what else could be put on that site if it was not developed as a brewery. Staff Rice stated that light industrial uses allowed in the TC district could not produce any fumes or noise and would include things like art studios and light manufacturing of things such as clothing.

The applicants, William and Holly Stewart, stated that they initially wanted to remain in the NMX district so that they could possibly live upstairs or rent out the living quarters of their business if they needed to.

Michael Kreimer motioned to send a favorable recommendation for RZ-003035-2014 to the Board of Commissioners. Vice-Chairman Underwood seconded. The motion passed unanimously, (5-0).

- C. RZ-003043-2015 – A request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3.

Staff Rice gave a presentation on RZ-003043-2015 (see attached).

Fred Burrell stated that he was in favor of finishing the Kensington Drive project and that he understands that staff is proposing to rezone the property to R-3 to allow for a

park. He stated that he was concerned that the town could at a later date, sell the property and housing could be developed by right under the R-3 zoning district.

Town Attorney, Chaplin Spencer, stated that there is a deed restriction placed on the property that only allows it to be developed for public uses and preservation.

Fred Burrell motioned to send a favorable recommendation to the Board of Commissioners for RZ-003043-2015. Michael Kreimer seconded. The motion passed unanimously, (5-0).

- D. VA-003046-2015 - A request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Road (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

Staff Oakley gave a presentation on VA-003046-2015 (see attached).

Attorney Spencer stated that the findings of fact were proposed by the applicant. He stated the Planning Board does not need to vote on the individual findings of fact but to simply give a favorable or unfavorable recommendation on the variance as a whole.

Attorney Spencer explained the normal road dedication and acceptance process and the issues that lead to the situation that the town is now in with Kensington Drive. He stated that the town has the right to choose whether or not to accept a road after the plat has been recorded.

Attorney Spencer stated that public funds cannot be used to fix a private road and that the town must approve the variance in order to use Powell Bill funds to help pay for the improvements along the entire length of Kensington Drive. He stated that Wells Fargo Bank has volunteered to contribute 400 thousand dollars to the project as they were the bank that took over ownership of the road after the original developer went bankrupt.

Chaplin recommended that the Planning Board send a favorable to the Board of Commissioners on the variance.

John Cannamela asked what would happen in regards to the road if the Board of Commissioners does not approve the variance. Attorney Spencer stated that if the variance is denied, the road will continue to deteriorate and parts of the road could be closed because of dangerous conditions.

Fred Burrell stated that several of the neighborhoods have threatened to petition de-annexation if Waxhaw does not take responsibility for the road. Fred Burrell stated that that there are obviously costs associated with repairing the road but the costs are innumerable if the town does not repair the road.

Fred Burrell thanked everyone involved in working out a solution to the issues with Kensington Drive.

Attorney Spencer stated that this issue has been on the table for several years but now the pieces have fallen into place to move forward on the project.

Fred Burrell motioned that the proposed variance meets the findings of fact and to send a favorable recommendation for VA-003046-2015 to the Board of Commissioners. Michael Kreimer seconded. The motion passed unanimously, (5-0).

6. Other Business - Update on previous case(s) heard by the Planning Board

Staff Oakley stated that there was not a Planning Board meeting in November and that the case heard in December has gone to public hearing but a decision has not been made. She stated that the applicant of the Berger Day Care case, heard in October, delayed the case by a couple of months but that a public hearing was just held on the case at the last Board of Commissioners meeting.

7. Minutes for correction and approval: December 15, 2014 regular meeting

Vice-Chair Underwood motioned to approve the minutes from the December 15, 2014 regular meeting. John Cannamela seconded. The motion passed unanimously, (5-0).

8. Adjournment

John Cannamela motioned to adjourn the meeting at 7:27 p.m. Fred Burrell seconded. The motion passed unanimously, (5-0).

The meeting adjourned at 7:27 p.m.

Respectfully Submitted,

Chairman, David Godfrey

Recording Secretary, Maxx Oliver



VI. New Business

- E. Discussion & Possible Action on the Petition for Acceptance of Kensington Drive as a Town Road, including waiver of the Town's Policy for Street Improvements and Maintenance

Presenter: [Lori Oakley](#)

Information

This issue is a petition for acceptance of Kensington Drive as a Town Road, which includes a waiver of the Town's policy for Street Improvements and Maintenance. The property has been insured by NCLM.

Board Action

- Possible action on the petition for acceptance of Kensington Drive as a Town road, including waiver of the Town's policy for street improvements and maintenance (Tax Parcel ID 06-162-001)

**TOWN OF WAXHAW
 PETITION FOR ADDITION OF PUBLIC STREETS
 TO THE SYSTEM OF THE TOWN OF WAXHAW, NORTH CAROLINA
 (Developers / Builders)**

I hereby certify, as the owner of a portion of roadway area for dedication and by virtue of knowledge from the Town of Waxhaw's Planning Department, that to the best of my knowledge the improvements on Kensington Drive have been constructed in accordance with the preliminary plans and are shown on a record maps filed in the Union County Register of Deeds Office. Not all of the work conforms to the construction standards of the Town of Waxhaw Unified Development Ordinance and the Town of Waxhaw Policy for Street Improvements and Maintenance and we must have a variance and waiver from said requirements for acceptance. **I have attached a recorded copy of the three plats where the entire roadway was dedicated to public use for your records.**

I, therefore, request that the Town of Waxhaw consider the following street for maintenance purposes. This also includes the maintenance of 35 (number) street lights. I understand that the acceptance of said street shall be made by the Town of Waxhaw Board of Commissioners only upon a waiver from the Town's policy for Street Improvements and Maintenance which is warranted because of the unique conditions and significant use of the street by the general public.

| Name | From | To | Approx. Street Length (in ft.) | # of Street Lights |
|---------------------|---------|-------------------|--------------------------------|--------------------|
| 1. Kensington Drive | Hwy. 16 | Waxhaw-Marvin Rd. | 6,729 ft. | * 35 |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |
| 8. | | | | |

(Attach additional sheets if necessary)

Town of Waxhaw, et al

Owner Name

2-2-15

Date

PO Box 6, Waxhaw, NC 28173

Address

704-843-2195

Phone Number

gmahar@waxhaw.com

E-mail

Accepted by motion of the Town of Waxhaw Board of Commissioners on the ____ day of _____, 20____.

 Mayor

 Date

* There are 23 single light poles and 12 double light poles. Approximately 10 more light poles are needed.



VI. New Business

- F. Discussion & Possible Action of Kensington Drive Speed Limit
Presenter: [Greg Mahar](#)

Information

A speed limit needs to be set for Kensington Drive.

Board Action

- Possible action of Kensington Drive speed limit