



## Planning Board Minutes October 8, 2009

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### Members Present:

**David Nail, Chairman**

John Robertson, Vice Chair

Danny Martin

Steve McGlothlin

William Ogburn

Larry Stamm

David Steen

Joe Thompson

### Also Present:

Tim Brown, Planning Director

Craig Culberson, Senior Planner

Angela Thompson, Senior Administrative Specialist

Mr. Nail opened the meeting with prayer at 6:02 p.m.

1. Approval of the minutes of the September 10, 2009 Planning Board meeting.

**ACTION: Mr. Steen made a motion to approve the minutes as submitted. Mr. Ogburn seconded the motion. The motion passed unanimously.**

2. Consideration of a **CONDITIONAL USE REZONING** request from Promenade on the Lake. The property located at 1479 River Highway is further referenced by Iredell County Tax Map PIN 4628-50-7259. The request is to **AMEND** the existing Conditional Use Rezoning Plan to allow boat sales.

Mr. Brown presented the Conditional Use Rezoning request stating the second and third items on the agenda were the same parcel. He stated that the property had originally been zoned Highway Business-Conditional Use District in December 2006 in anticipation of future uses for the site. At that time the Town Board adopted a list of approved uses that could be permitted by right or with Conditional Use approval on the property. He said the applicant had agreed to submit a Site Plan, upon the establishment of any use associated with the property, for approval by the Town of Mooresville. He stated that the requests were being submitted separately, which would require two Board actions, for the sake of clarity.

He stated that the Conditional Use Rezoning for Promenade on the Lake was to reestablish boat sales and service, which was stricken from the original list of permitted uses in 2006. The adoption of the use would establish a use by right if approved. He pointed out that boat sales and services had historically been located on the property, noting it was currently vacant. He said that establishment of the particular use was in keeping with the 2030 Comprehensive Land Use Plan which supported Mixed-Use development along the NC 150 road frontage. He said that the Plan did require the dedication of right-of-way to establish a four lane median cross section for NC 150, which was part of



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the North Carolina Department of Transportation project designated for the NC 150 corridor. He stated the Staff believed that the use at the site was appropriate, and it was consistent in intensity and was comparable to other uses that were permitted on the designated list. He noted that the only improvements would occur on the shoreline, which pertained to the third agenda item. He said the existing structure on the site was to be expanded to facilitate boat sales and service, referencing the conceptual elevation. He explained that the existing parking would support the requested use, and the applicant would restripe the surface to comply with the Town of Mooresville's parking standards. He stated the applicant had agreed to close driveways to accommodate the configuration of the plan.

Mr. Brown invited questions from the Board concerning the request to amend the original approved list of uses. Mr. Nail asked that Mr. Brown illustrate the location of the building and how it was to be expanded. Mr. Brown indicated the location of the building and pointed out that the right side of the building would be expanded.

Mr. McGlothlin asked why the boat sales and service had been stricken from the site. Mr. Brown said the applicant did not believe it was a desirable use when the request for municipal zoning was applied for in 2006. He stated that the applicant was requesting the use due to the economic conditions to provide as much potential interim use and income for the site as was possible. He said that the Staff's only concern was the potential impact on adjoining properties from the intensity of the use. Mr. Brown did not believe there would be significant changes to the existing vegetation at the site, which was wooded.

Mr. Robert Johnson, of Robert Johnson Architects, spoke on behalf of Dr. Ted Morris, the property owner. He stated that due to economic conditions, the current proposal was a temporary fix. He said that in 2006 they submitted a plan which included a hotel and retail activity known as Promenade on the Lake. He indicated that his client was looking for more options for the property to generate income while he waits for the economy to improve.

He said that the current building would be painted and would have a block wall around it. He also said there would be landscaping added to screen the building. The addition to the building would be brick and would provide more rental space. He said that they did not have anyone interested in selling boats at the location, but that they wanted the option in case someone decided to approach them. He reiterated that the proposal was temporary and said that the desire was to develop the site as it was originally submitted in 2006.

Mr. Ogburn asked how much retail space was going to be added and what type of retail business would be attracted by it. Mr. Johnson stated that two thousand square feet was being added to the existing structure, but he did not know what type of retail would occupy the space. He speculated that the use could be boat sales or an office.



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**ACTION: Mr. Stamm made the motion to approve the Conditional Use Rezoning request. Mr. McGlothlin seconded the motion. The motion passed unanimously.**

3. Consideration of a **CONDITIONAL USE PERMIT** request from Promenade on the Lake. The property located at 1479 River Highway is further referenced by Iredell County Tax Map PIN 4628-50-7259. The request is to allow a marina on the site.

Mr. Brown presented the case, stating that the parcel was the same as the case previously presented. He said the applicant was intending to utilize the existing structure at the site to allow for a commercial marina. He said the existing parking along the frontage of the property would be used, as well as parallel parking along Big Dukes Lane. He pointed out that an accessory structure was being proposed for a restroom facility and concession shop at the existing dock. He said a marina had once been located on the site with docks which were non-conforming to Duke Energy's standards. Duke Energy would allow the docks to be renovated. He said the pier structures would later be relocated on the property and would be rendered conforming by Duke Energy's standards, once the marina design was implemented.

He also stated that the applicant was making improvements to the shoreline of the property by establishing seawalls and constructing a boardwalk. He said that the existing infrastructure was being utilized which would allow for public access ramps. He indicated a portion of the site had been used for commercial staging, which according to Duke Energy was a term for dredging. He said that the commercial staging at the property had been vacated for an extended period of time. Mr. Brown recommended that the Board not approve a commercial staging element at the property. He said that should the applicant decide to utilize the commercial staging area in the future, the applicant would have to present the use for consideration by the Board.

He referred to the site specific plan to indicate the existing structure which would be utilized for the request. He indicated that Staff did support the use of the site as a commercial marina, which had previously occupied the property. He said it was a use that was consistent with the 2030 Comprehensive Land Use Plan in terms of establishing Mixed-Use on the property and along the NC 150 corridor.

He said the impact with regard to the Transportation Impact Analysis had been evaluated by the Staff, and the use would not trigger off-site transportation improvements. He recommended that the Board approve the request for a marina at the property but commented that the commercial staging aspect should be stricken from the plan.

Mr. Stamm asked Mr. Brown to clarify the statement that he recommended striking the commercial staging area application from the request. Mr. Ogburn asked if the site was used by Duke Energy for dredging. Mr. Brown indicated that the commercial staging had been on the site previously but had been vacated. He stated that Duke Energy had not used the staging area.



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Mr. Stamm asked if the Staff had looked at the number of parking spaces on the property which would be supporting the number of boats using the facility. Mr. Brown affirmed that the Staff did believe there were sufficient parking spaces to support the use. Mr. Stamm asked if the site was going to have public access at the end of the lane and at the commercial staging area. He asked if it was possible to have boat access presently. Mr. Brown indicated that the ramps were a part of the existing structure and could be used. He stated that existing structures were being utilized, with the exception of an accessory structure which would be built.

Mr. Martin asked if there would be improvements to the road at the site. Mr. Brown stated that the road would be widened to accommodate parallel parking. Mr. Martin stated that he had driven on the road and did not feel that it was adequate for the proposed type of use. Mr. Brown reiterated that the applicant was going to make improvements.

Mr. Robert Johnson addressed the Board regarding the Conditional Use Permit. He described the request as Phase One. He stated that Dr. Ted Morris was cleaning up the existing non-conforming marina, which would be rearranged to become a conforming structure. The approval process had begun and would take eighteen months to two years to comply with Duke Energy's standards. He said that a seawall would be constructed along the shoreline, along with the installation of a boardwalk.

Mr. Johnson acknowledged that the road that accessed the property was not in good shape. He stated that gravel would be installed with some paving. He said that there would not be a great deal of money invested, as the road was going to be torn out during the final phase of work at the site. He said that the present road would be made serviceable and would conform.

Mr. Johnson referred to the existing staging area on the site stating he and Mr. Brown had discussed removing the staging area from the proposal. Mr. Johnson said the staging area was on the property when his client, Dr. Morris, purchased the property. He indicated that the site had been, in the past, operated by Lake Norman Dredging. He said that people still believed that the site was being used, as there was a variety of equipment on the property. He said that it was his understanding that for the site to be a staging area, it would have to be permitted. He stated that his client did not wish to have the staging area taken off of the present request, as Duke Energy or another entity might later approach him to utilize the site. He would then have to make an application for a Conditional Use Permit.

Mr. Brown said that the first criteria for establishing a commercial staging area on Lake Norman was that there had to be a commercial marina on the site. The commercial staging area could be established within the Town of Mooresville's zoning requirements or Duke Energy's more stringent requirements for permitting. He stated that he had no knowledge of the intensity of the anticipated use of a staging operation, and Staff would not support that element of the site plan. He recommended that the Conditional Use Permit not include the commercial staging area as a permitted ancillary use. He stated



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that it would preclude the applicant from applying for a Conditional Use Permit for the use, should the applicant be approached by an entity wanting to have a dredging operation at the site.

Mr. Stamm asked Mr. Johnson to review the plans for the dock structures with the Board. He asked if the plan was to take out the original structures and start over or would the current structures be used. Mr. Johnson stated the docks were being renovated with new wood and composite decking to avoid rotting. He also said new roofing would be installed as the construction on the docks was being performed.

Mr. Dean Brunston, Dr. Morris' attorney, introduced himself and informed the Board that Duke Energy would only allow repairs on one dock per year. He stated that one was being currently repaired while the other two would be repaired over the next two years. He said that one dock was being rented, and the second dock was under repair.

He further discussed the staging area citing the need to use the staging area to bring in dirt to construct the bulkheads. He also said that the first application had been submitted which included the seawall, the boat ramps, the walkway, the bulkhead and the marine staging area. He stated that Duke Energy recognized the commercial staging area as a business staging area. He said the Army Corps of Engineers, the North Carolina Department of Energy and Natural Resources, the North Carolina Wildlife Commission, the North Carolina Parks and Recreation and Public Water and Health had approved the plan submitted. He stated that the Lake Norman Marine Commission had not completed its review of the plan.

Mr. Martin asked if Dr. Morris would be able to use the staging area if the Board did not approve its use. Mr. Brunston affirmed Dr. Morris would be able to use the site to build the bulkheads. He asked that the staging area remain on the proposal, as his client would have to apply for a permit for future dredging. Mr. Martin stated that there had been a request by Rowboat Dock and Dredge for a permit to operate at the site. The request was met with opposition and was denied. Mr. Brunston said his client had not engaged Rowboat Dock and Dredge for any dredging. Mr. Johnson stated that Rowboat Dock and Dredge had been interested in moving their operations from Exit 33. He indicated that it would not be moving. Mr. Martin asked what the difference was between what Rowboat wanted to do previously and what Dr. Morris was proposing to do at present. He said that Rowboat wanted to bring everything from Exit 33 and store equipment at the proposed site. He stated that the neighbors were upset about seeing cranes and dock material stacked up at the site.

Mr. Brown added that the Staff was not adverse to use of the site to facilitate the construction of the project. He said it would not have to be designated on the plan. He stated that the Staff did not support the commercial element, as there were too many unknowns pertaining to the intensity of the use.



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Mr. Ogburn asked Mr. Brown if, under the current zoning, a commercial dredging operation would be permissible. Mr. Brown said it could be permitted as a part of a marina operation. Mr. Brown asked that the Board not include it in the present request.

Mr. Tim Wilson, a homeowner in the Pinnacle Shores development, spoke to the Board about his earlier involvement in the Rowboat Dock and Dredge controversy. He stated that the Pinnacle Shores Homeowners' Association had voiced opposition to a permanent staging area at the site due to their concern of increased traffic, specifically dump trucks, to and from the site. They believed it would be detrimental to the community. He said the consensus was that a temporary staging area was acceptable for the construction of the site. He stated that the group was in agreement with Mr. Brown. He said the rest of the site plan was acceptable.

Mr. Johnson asked Mr. Wilson if Lake Norman Dock and Dredging was on the site when he built his house. Mr. Wilson stated that it was not but that there were several pieces of abandoned equipment at the site. Mr. Johnson said that the only individual who would be able to see the staging area was Mr. Jack Williams of Queen's Landing. He indicated that Mr. Williams was not, to his knowledge, in opposition to the area remaining a commercial staging area.

**ACTION: Mr. Martin made the motion to approve the Conditional Use Permit without the commercial staging area. Mr. Robertson seconded the motion. Mr. Thompson opposed the motion. The motion passed.**

4. Consideration of a **CONDITIONAL REZONING** request from Carolina Income Management Group, LLC. The property located at Muskedine Loop and Lineberger Road is further referenced by Iredell County Tax Map PIN's 4637-75-0571, 4637-75-0351, 4637-75-0105, 4637-75-1053, 4637-74-1914, 4637-74-0883, 4637-74-0753, 4637-74-0624, 4637-74-5030, 4637-64-9474, 4637-64-8763, 4637-64-8071, 4637-64-5442, 4637-64-6676, 4637-64-6802, 4637-65-6037 and 4637-65-6354. The request is to conditionally rezone additional property.

Mr. Culberson presented the Conditional Rezoning request for Carolina Income Management Group, LLC. He described the parcel as a thirty-one acre tract to be added to the property currently known as Morrison Plantation. The original project was approved by the Board of Commissioners on November 2, 1998, with additional property added to the development on October 4, 1999. He stated that the original conceptual site plan was approved with roadway improvements; developed with conditions that included a design guidelines document that indicated items such as setbacks, architectural design regulations and signage. He said the application request was for an amendment to the number of attached residential units and of the total number commercial areas in the development. The original November, 1998 request was for eight hundred twenty-five maximum single family units, eight hundred attached residential units and one million, three hundred eighty thousand square feet of commercial spaces. He stated that number of units would be available for the entire site.



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He pointed out the parcel to be rezoned on the map and indicated the areas of the development with Single Family Residential units. He said the rezoning request consisted of four hundred fifty units. He indicated the locations of Harris Teeter, retail centers, banks, restaurants and the YMCA. He said the plan indicated in 1998 and 1999 the building to street relationship, with parking to the sides and rear of the buildings thus creating a pedestrian environment. He pointed out areas along Morrison Parkway which were undeveloped. He indicated other areas which were currently undeveloped.

He stated that the application was to rezone the area from R2 (Single Family Residential) to CMX (Corridor Mixed-Use) in compliance with the rest of Morrison Plantation. The request would also increase the number of attached residential units from eight hundred twenty-five (825) to one thousand, four hundred twenty-five (1425), an increase of six hundred units throughout the four hundred acres encompassing Morrison Plantation. He said the request also included an increase of commercial area from one million, three hundred eighty thousand (1,380,000) square feet to one million, five hundred ten thousand (1,510,000) square feet. He stated that all of the development would be available for the increases and not contained totally within the proposed parcel.

He stated that Plantation Ridge terminated at the area proposed. He said the schematic plan included townhomes and apartment development along the waterfront with amenities still under design review. It would use the same design guidelines that were adopted pertaining to setbacks and building heights. He said that the Morrison Plantation guidelines capped building heights at three stories throughout the site.

He reported that the request complied with the town's Comprehensive Transportation Use Plan; and the area was indicated as Neighborhood Residential Development, which allowed for a variety of housing types. He stated that Plantation Ridge would be extended to the boundary of the property to allow access. He said the impervious surface allowance for the site would be incorporated into the cumulative allowance for Morrison Plantation. He indicated that the property was partially located within the protected and critical areas of the WS-IV Catawba-Lake Norman Watershed. He stated that the critical area allowed for fifty percent maximum development, and the protected area allowed for seventy percent maximum development. The two figures were computed to determine the maximum development for the area, which was sixty-seven percent maximum coverage.

He stated that the Staff supported the request with the following conditions:

1. All of the improvements listed in the Traffic Impact Analysis be completed prior to the issuance of any Certificates of Occupancy of any building in this additional phase.
2. All of the conditions of the original Morrison Plantation rezoning be applied to this rezoning including the Morrison Plantation Guidelines.
3. Any development plans be subject to full site plan approval.
4. Any development of this site must provide adjacent property owners the same of improved access to their property as they have prior to any new development.



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5. Any subsequent development must comply with the architectural standards set forth in the zoning ordinance that was adopted in March of 2008.

He said the proposed parcel was slated for rezoning in 2008, but it was tabled. The Traffic Impact Analysis was reviewed to determine if new roadway improvements would be necessary. The study determined there were to be improvements to Morrison Plantation Parkway at NC Highway 150 and to Plantation Ridge Drive.

The existing pavement markings would be ground and restriped on the Morrison Plantation Parkway approach to display a left turn lane and a through/right-turn shared lane. He indicated the straight and left lanes were currently shared with the right-turn lane being independent. He also said the traffic signal would be rephased to provide protected/permitted northbound left turn phasing, eastbound right-turn overlap phasing and remove the northbound right-turn overlapping phasing. He said that as the development progressed, the Staff would insure that the improvements were made.

He indicated that Plantation Ridge Drive would be extended across the entire length of the proposed site in such a manner that a future connection to Lineberger Drive would be accommodated by the alignment. He said that development traffic would not have dissipated before entering the intersection. It was determined that the northbound and southbound median would be removed to construct northbound and southbound left-turn lanes on Morrison Plantation Parkway with a minimum eleven foot width. There would also be one hundred feet of full storage length and a seventy-five foot bay taper length. He stated that as development took place, the North Carolina Department of Transportation would have the ability to review the plans individually and make additional improvement requirements.

He indicated that any specific development plans would have to be approved through the Town's Land Development process. He invited questions from the Board.

Mr. Martin asked if a new Traffic Impact Analysis would be required. Mr. Culberson stated that the 2008 Traffic Impact Analysis enumerated the recommendations of turn lanes on NC Highway 150 and Morrison Plantation Parkway.

Mr. Steen asked if a punch list of items within the development had been prepared and brought up to the Town of Mooresville's standards. Mr. Culberson said the roadways within Morrison Plantation were accepted by the Town in December 2008. He said that he believed the punch list items Mr. Steen was referring to had been completed. The roads were presently under the jurisdiction of the Town of Mooresville. Mr. Steen asked if there were any other punch list items to be addressed. Mr. Culberson stated the developer had indicated there were no punch lists.

Mr. Steen asked what the appropriate lake buffers were. Mr. Culberson said the property would probably be developed under the high impervious option of the watershed. This would require a one



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hundred foot buffer around the perimeter of the property where it was adjacent to Lake Norman before there could be any hard surface development. He stated that according to Duke Energy's lake management the first fifty feet of the buffer would be undisturbed, while the second fifty feet would be landscaped or manicured.

Mr. Martin asked if the developer planned to incorporate the parcel into Morrison Plantation to increase the intensity of the development. Mr. Culberson said that whether the current owner developed the parcel or sold it to another developer, the land would be subject to the guidelines specific to Morrison Plantation.

Mr. Martin stated that with the current request the parcel could be left undeveloped while the intensity in the rest of the development could be increased. Mr. Culberson said that the approval of the request would allow the developer to increase six hundred additional multi-family units and would be able to exceed the commercial square footage by an additional one hundred thirty thousand square feet. He stated that this was a theoretical maximum, which would still be bound by the requirements set forth. He said that the theoretical maximum would not necessarily be met. He offered the example that the original approval called for eight hundred twenty-five Single Family units, but was unachievable due to lack of space.

Mr. Steen asked if the CMX (Corridor Mixed Use) zoning would allow commercial uses on the site. Mr. Culberson stated that the use would have to be in keeping with the residential use, but that any uses listed the Corridor Mixed Use zoning could be applied. Mr. Steen asked if an office building could be allowed. Mr. Stamm stated that the matrix in the Zoning Ordinance showed that an office building could be located on the parcel. Mr. Culberson concurred.

Mr. Steen asked if a marina would be an option. Mr. Culberson, citing the previous agenda item, stated that the developer would have to apply for a Conditional Use Permit before proceeding with a marina. He said that the Board of Commissioners would have to approve the permit, and the applicant would have to go before eleven other state agencies before the marina request could be granted.

Mr. Stamm asked if the developer's representative had spoken with the Morrison Plantation Homeowners' Association concerning the proposal. Mr. Brian Schoeck introduced himself as a representative of Johnston, Allison & Hord, Attorneys at Law. He said there had been meetings with the homeowner's association, as well as the adjacent land owners. He indicated that the meetings were to lay out the proposal for the land and to receive input and concerns from all of the parties in order to work through any potential issues that arose. He said that there had not been any issues brought up concerning the request, but that there had been concerns about access.

He also addressed the punch list items stating these had been completed to the satisfaction of the Town of Mooresville. He said that the bond that had been secured for performance had since been released.



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He stated that the only remaining item the homeowner's association had concern about was the boat storage they requested from the developer.

Mr. Stamm asked if the developer anticipated a pool or park for the subject parcel, or would the existing Morrison Plantation amenities be utilized. Mr. Schoeck stated that there were no plans at the moment, as the site could be developed by the current developer or by another party. Mr. Stamm reiterated that there would be no pool, park or playground for approximately eighteen hundred units. He stated that the request was for one thousand, four hundred twenty-five units, to which Mr. Schoeck agreed. Mr. Stamm continued stating that there were no plans for amenities for the additional units. Mr. Schoeck said that there was currently a park and clubhouse with a pool at Morrison Plantation. He also mentioned that the YMCA facility was located within Morrison Plantation. He said that the Meeting Street Homes developer was developing its own townhome subsection within Morrison Plantation. He further stated that an apartment developer, which owns approximately twenty acres, was proposing apartments in a portion of the undeveloped land. He speculated that the developer would be required to add amenities, but that Morrison Plantation developers did not plan to add additional amenities, as presently there was no use designated for the proposed site. He stated that the final site plan would add details pertaining to amenities, as at the time of the presentation there was only a conceptual plan.

Mr. Culberson stated that a plan submitted by the developer or another party would have to comply with open space and amenity requirements for the portion of the land being developed. He stated that the existing swimming pool at Morrison Plantation was for the current members of the Homeowner's Association. He said that if the proposed parcel was included in the Morrison Plantation development, then the existing pool would serve the residents of the newly developed area. He added that should the parcel not be included in the Morrison Plantation development, then the developer would have to submit plans for amenities.

Mr. Steen asked if there were any plans by the developer for enhanced connectivity. He indicated that there was only one way to reach the parcel, as was being presented to the Board. Mr. Johnson said that the option had been discussed with the Planning Staff and adjacent property owners. He stated that Lineberger Road did dead end at the proposed property and extended to Doolie Road. He said that there were no plans to connect to this road, because it was not a public right-of-way. It was a private easement. He indicated that the developer could not change the accessibility of that right-of-way. He noted that the developer was willing to continue discussions with the property owners who had access to Lineberger Road. He stated that Plantation Ridge Drive was considered an improvement to access to the area and believed that it would be the preferred mode of access.

Mr. Culberson stated to Mr. Steen that the Town of Mooresville's Comprehensive Transportation Plan indicated a connection to Kendra or Doolie Roads sometime in the future. He said that as the proposed site was developed, Plantation Ridge Parkway would be built to facilitate connectivity with the other roads. He also stated that the Planning Staff had had discussions with the adjacent property owners



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concerning a possible connection. He said that there were several significant properties lying between the development and Kendra or Doolie Roads, and Plantation Ridge Parkway was being extended to facilitate the connection in the future.

Mr. Johnson wanted to clarify that the design guidelines were approved in 1998 and were a condition of the present request. He also indicated that the boat storage and marina were requested by the Morrison Plantation Homeowner's Association, specifically, as an amenity they would like to have on the property. He said that the developer had worked closely with the association to provide their request.

Mr. Robert Nantz, an adjacent property owner, stated that his family owned Lineberger Drive, which was a private road. He indicated that to access the road, one would travel along a gravel road and an earthen dam. He said that his family's concern had been that connecting Lineberger Road to Plantation Ridge Parkway would allow all of the residents in the area to use the road to travel to the high school. He did not believe the road would be able to support the traffic volume. He further stated that once the improvements were made to the development, his family would close Lineberger Drive. It would be accessible to only the existing homeowners. He stated that his family would not make improvements to the road, allowing it to grow back to a natural state.

**ACTION: Mr. Steen made a motion to deny the Conditional Rezoning, citing concerns of access, of intensity of use and of traffic volume. Mr. Stamm seconded the motion. The motion passed unanimously.**

5. Consideration of an **AMENDMENT** to a **CONDITIONAL USE REZONING** from Faison-Waterlynn II, LLC. The property located at NC Hwy. 21 and Waterlynn Rd. is further referenced as Iredell County Tax Map PIN's 4656-05-7358, 4656-04-2731, 4656-04-9168, 4656-03-3458 and 4656-03-5833 (amended parcel). The request is for additional acreage and units to a previous Conditional Use Rezoning plan.

Mr. Culberson began the presentation of the request indicating that the property was adjacent to the intersection of US Highway 21 and Waterlynn Road. He said that the request was to add 4.5 acres of property and fifty-four townhome units to the Waterlynn Place Plan, originally approved by the Board of Commissioners on May 1, 2006. He stated that the plan was approved to include three hundred ninety-eight units, including three hundred twelve apartments, seventy-one townhomes and fifteen Single Family lots. Subsequently the plan was approved with an amendment, so the current development contained three hundred twelve apartments, sixty-three townhomes and twenty-two Single family lots. He said that the apartments had been constructed, while some of the townhomes and a single family lot were under construction.

He indicated that if the current proposal were approved the request would increase the number of townhomes to one hundred seventeen. The plan showed that five of the buildings would be located



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along Waterlynn Ridge Road. He said that the other six buildings would front a common green space, with a twenty foot width screened buffer along the property line adjacent to the existing residences. He stated that all of the properties would be served by rear-loaded parking facilities. He further stated that the open space requirement of the existing development was sufficient to support the additional units. The townhomes would provide a transitional buffer from the existing Single Family Residential lots and the proposed commercial site slated at the intersection of Waterlynn Road and US Highway 21.

He indicated that a Traffic Impact Analysis was performed when the project was originally approved, and appropriate roadway improvements were determined. The improvements occurred at the intersections of Waterlynn Road and US Highway 21. Turn, stacking and storage lanes were added to the main entrance to the apartments on US Highway 21. He said that after review by the Planning Staff and the North Carolina Department of Transportation, it was determined that additional roadway improvements would not be necessary for the additional units requested.

He stated that the Planning Staff had reviewed and determined that the proposal met the criteria for the Concept Plan. He said that Concept Elevations had been submitted and approved as being in compliance with Chapter Six of the Town of Mooresville Zoning Ordinance.

Mr. Martin asked that Mr. Culberson explain the existing zoning, as it appeared to be the same. Mr. Culberson said that part of the property was zoned Neighborhood Mixed-Use with Conditions, while part was zoned Residential Mixed-Use. The request to rezone the property to Neighborhood Mixed-Use with Conditions would allow for consistent zoning throughout the project. Mr. Martin asked if a business could be located in the neighborhood. Mr. Culberson directed his attention to the map and indicated that the request was for the addition of townhomes.

Mr. Ogburn asked Mr. Culberson to indicate where the proposed commercial development was located in relation to the current proposal. Mr. Culberson said that the Mt. Mourne-South Iredell Small Area Plan indicated a community-based commercial development to take place somewhere around the intersection of US Highway 21 and Waterlynn Road. He stated that as commercial development occurred, the townhomes would be a good buffer for the Single Family Residential homes in the area. He said that there were no proposals for the commercial development at that time, but that he was quoting from the Small Area Plan.

Mr. Robertson asked if the proposal was for fifty-five or fifty-four townhomes. Mr. Culberson stated that the request was for fifty-five units. Mr. Robertson asked how many dwelling units were in the plan at build out from the railroad tracks to US Highway 21. Mr. Culberson stated that the Waterlynn Subdivision contained three hundred ninety-one units and Waterlynn Place was approved for three hundred ninety-eight units.

Mr. Robertson asked if the road improvements on Waterlynn Road were to the satisfaction of the developer. Mr. Neil Kapadia, a representative of Faison and Associates, stated that the North Carolina



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Department of Transportation had approved the road. Mr. Robertson pointed out that the power poles had been relocated on the south side, but there was a guide wire on the north side of the road. He also said the lane markings and directional arrows at Waterlynn and US Highway 21 were basically non-existent. He stated the markings had at one time been there.

Mr. Stamm asked Mr. Culberson if the original Traffic Impact Analysis accounted for the proposed addition. Mr. Culberson stated that the original Traffic Impact Analysis was examined by the Staff and the North Carolina Department of Transportation when the proposal was presented. It was determined the road improvements required were sufficient to account for the additional units.

Mr. Sean Paone, the Project Manager for Cole, Jenest & Stone, and Mr. Kapadia addressed the Board to answer any questions. Mr. Kapadia clarified that his company did not control the proposed property at the time the Waterlynn Ridge Subdivision was originally developed. He said their intention was to have a streetscape off of Waterlynn. He indicated that the neighborhood was to be pedestrian friendly.

**ACTION: Mr. Steen made a motion to approve the Amendment to a Conditional Use Rezoning. Mr. Robertson seconded the motion. Mr. Stamm opposed the motion. The Statement of Reasonableness and Compliance was adopted. The motion carried.**

6. Consideration of a **TEXT AMENDMENT** request from the Town of Mooresville to clarify the section regarding home based businesses and home based offices. The Text Amendment is to **Section 5.4.3 Home Occupation Requirements**, of the Town of Mooresville Zoning Ordinance.

Mr. Brown presented the request stating the Text Amendment pertained to Home Occupations, which could be established within a residence. He said that there were certain guidelines in place that supported ancillary uses of residential structures. He indicated that the ordinance amendment would add vehicle size limits within home occupations, along with accessory guidelines associated with the buildings. He indicated that the standards of home occupations were defined in two subsections. The first reference pertained to Home-based businesses and businesses that would be allowed under the Home-based criteria. He pointed out that the intensity of use at the site was regulated.

He indicated that the second criteria pertained to Home-based Office type uses. He pointed out that the amendment provided additional guidance to the types of uses as subcategories of Home Occupations. He illustrated that to establish a Home-based Office there would be additional criteria, using the example that a small, residential contractor could locate an office on the site without a point of sale.

He stated that the Zoning Administration needed to be able to manage the size of vehicles associated with a Home-based Office use. He stated that the amendment would further give clarification to the standards already in place for Home Occupations.



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Mr. Stamm asked if there had been substantial problems in this area. Mr. Brown replied that there had not been many in recent history, but that there had been in the past. He cited the previous zoning ordinance, stating the Staff wanted to have this clarification in order to be proactive in managing the types of uses before there could be an adverse impact on the community.

Mr. Steen asked if the vehicle restriction would allow for work vehicles to be parked at a residence. Mr. Brown responded that the amendment would give further definitions in terms of the types of uses that could be parked on the site. He said that it pertained to the intensity and size of the vehicle within the setting of the residential community.

Mr. Nail asked Mr. Brown if this had been addressed before with vehicle parking. Mr. Brown affirmed that the General Code of Ordinances addressed on-street public parking. He stated that the proposed amendment addressed specifically the category of Home Occupations and not on-street parking in general.

Mr. Stamm commented that he was in favor of the amendment, but that he believed that the vehicle size aspect was too restrictive.

**ACTION: Mr. Robertson made a motion to approve the text amendment for the Town of Mooresville Zoning Ordinance and adopt the Statement of Reasonableness and Compliance. Mr. Ogburn seconded the motion. Mr. Stamm and Mr. Thompson opposed the motion. The motion passed.**

7. Consideration of a **TEXT AND MAP AMENDMENT** request from the Town of Mooresville to modify the existing Mill Village Neighborhood Conservation Overlay, **Section 4.3.6 and 4.3.7**, which would prohibit the enclosure of front porches and add global and street element requirements for new construction, additions and alterations.

Mr. Brown began the presentation by pointing out that the Staff had been working on the Text and Map Amendments for quite some time. He stated that the Staff had engaged the Mill Village residents to assist in developing the amendments through several workshops. He commended the residents for their input and guidance.

He then presented the Text Amendment with a Power Point Presentation, which is on file.

After the presentation Mr. Brown invited comments or questions stating he had additional slides that illustrated the Text Amendment changes.

There was confusion among the Staff and Board pertaining to the stricken parts of the Staff Report and the underlined, added parts of the report, as the language was identical. Mr. Brown recommended that the Board could make adjustments to the wording for the Text Amendment.



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Mr. Tony Pruitt, a resident of the Mill Village, thanked Mr. Nail and Mr. Martin for their participation in the previous workshops and meetings. He stated that the material discussed changed over time from meeting to meeting. He said that Mr. Brown's previous presentations reflected the changes. He said that he was concerned about the wording of some of the text. He suggested that the wording be changed. After lengthy discussions among the Board, Mr. Brown and Mr. Pruitt, it was determined the changes to the language in certain passages of the Text Amendment would be made in the motion for approval.

Mr. Stamm asked Mr. Pruitt if he had further recommendations. Mr. Pruitt asked to read a passage from "Real Estate Practice in NC" to the Board. He said that he believed the overlay would devalue the properties within it. He stated that the passage was from a book recommended by the North Carolina Real Estate Commission. He quoted the passage saying, "Historic Preservation Zoning: The purpose of historic preservation zoning is to preserve historic buildings and sites that are irreplaceable." He said that there had been discussions concerning the fact that the Mill Village houses were old, but there was nothing that designated the Mill Village as historic. He stated that every mill town in North and South Carolina had mill houses that were old. The mills did so to provide housing for their employees.

He requested that before the Board of Commissioners imposed any historic zoning requirements, he wished to make them aware that they would be devaluing the proposed properties. He said that aesthetic zoning was also included in overlay zoning and historic preservation zoning. He quoted a passage saying, "A property's value is decreased for the public good of an aesthetically pleasing neighborhood."

Mr. Brown pointed out that there were varying opinions concerning property values pertaining to Historic District statuses.

Mr. Martin replied that the Mill Village would not be designated an historic district. He stated that the Overlay was being proposed was to keep conformity within the neighborhood. Mr. Pruitt said the majority of the residents did not want to be included in an historic district. Mr. Brown explained that the proposal was for a Neighborhood Conservation District and not a Historic District. He stated that the standards for a Historic District were much more stringent than the Overlay. He reiterated that the proposal was not for a Historic District, as a form of conservation.

Mr. Pruitt also suggested that the neighbors were not opposed to the mill being torn down to promote further growth in the neighborhood.

Ms. Angela Rudd, a resident of the neighborhood, stated that her husband was a member of the Historic Preservation Commission. She said that she was confused by Mr. Pruitt addressing the Board concerning historic preservation, as that was not the case. She stated that her home was not a traditional mill house, because it was built before the mill was opened. She said that her home did not fit the typical design of the other homes in the neighborhood, but that she would not need to make



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changes to the home. She said she thought the Neighborhood Conservation Overlay had been approved in 2008. Mr. Brown replied that the Neighborhood Conservation Overlay in the Zoning Ordinance was approved in March, 2008, but that the current proposal was to change the language.

Ms. Rudd wanted to know if the overlay would be continuously changing or would the current proposal be the last time it would be updated. Mr. Nail responded that the current request would be adopted but that there might be a need for updates to the current Neighborhood Conservation Overlay from time to time. Ms. Rudd stated that she agreed as neighborhood demographics were constantly changing, citing the large number of older individuals within the Mill Village. Mr. Nail stated that all of the Zoning Ordinances could be updated as the needs arose in the future.

Ms. Rudd stated to Mr. Brown that there was a high correlation between the geography of the neighborhood and the opinions of individuals pertaining to the overlay. She wanted to know if there was a possibility of districts within districts, as she was very conservative. She cited that she had lived in Washington, D.C. and understood how neighborhoods could be changed without proper monitoring. Mr. Martin replied that it would be very hard to do, as not everyone would agree with different ideas. Mr. Brown stated that it would be very difficult to manage. He said that he recognized that there were varying opinions about what should and should not be included in the Text Amendment to protect the character of the Mill Village. He stated that the Staff had tried to embrace the varied opinions and recommendations of everyone when the Text Amendment was being developed.

**ACTION: Mr. Robertson made the motion to approve the text amendment for the Town of Mooresville and adopt the Statement of Reasonableness and Compliance with the following changes to the Text Amendment:**

**Section 4.3.7.C.iii.a Additions: Additions shall be to the rear or side of the principal structure or existing attic space may be altered to create habitable space. Additions shall be similar to, but not limited to Table MV3.**

**Section 4.3.7.C.iii.a.3 Additions: Attic alterations should not change the overall height of the principal structure and shall not change the existing pitch of the primary roof.**

**Section 4.3.7.C.vi Mechanical Systems: Mechanical systems where practical be located out-of-sight from public right-of-ways or screened with shrubs or fencing. For the purposes of this subsection, “mechanical systems” shall be defined to include, but not be limited to:**

**Mr. Martin seconded the motion. The motion passed unanimously.**

8. Other business the Board may consider.



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Mr. Brown stated that the Iredell County Board of Commissioners approved the appointment of Mr. Alan Brawley to the Mooresville Planning Board to represent the Extra Territorial Zoning Districts. He stated that according to the Town Attorney, Mr. Steve Gambill, the appointment would need to be ratified by the Mooresville Town Board of Commissioners at the next meeting on November 2, 2009.

**ACTION: Mr. Ogburn made a motion to adjourn the meeting. Mr. Stamm seconded the motion. The motion passed unanimously. Mr. Nail adjourned the meeting at 8:22 p.m.**