



Planning Board Minutes April 8, 2010

Members Present:

David Nail, Chairman

John Robertson, Vice Chair

Danny Martin

Steve McGlothlin

William Ogburn

David Steen

Also Present:

Tim Brown, Planning Director

Maureen Gable, Planner

Neil Burke, Transportation Planner

Mandy Edwards, Zoning Administrator

Tammy Heck, Zoning Administrator

Angela Thompson, Administrative Support Specialist

Mr. Nail opened the meeting with prayer at 6:01 p.m.

1. Approval of the March 11, 2010 minutes.

ACTION: Mr. Steen made a motion to approve the March 11, 2010 minutes as submitted. Mr. McGlothlin seconded the motion. The motion carried.

2. Consideration of a **CONDITIONAL USE PERMIT** request from Concord Property Development, LLC. The property located at 476 S. Main St., is further referenced as Iredell County Map PIN's 4656-99-0304, 4656-98-2861 and 4656-98-7896. The request for the Conditional Use Permit is to allow Type II Retail that is greater than 60,000 s.f. of gross floor area within the TC (Town Center) zoning district.

Along with a Power Point presentation, Mrs. Gable presented the request to the Planning Board. She began by stating that the request was from Concord Property Development, LLC for the former Burlington Mill site located at 476 South Main Street. She said the applicant was asking to allow retail use at ninety-nine thousand (99,000) square feet with an additional twenty thousand (20,000) square feet for a shipping/receiving area and warehouse storage to support the retail use. She said that this was building one (1) on the site.

Referring to the Subject Property Map, Mrs. Gable indicated the location of the mill and the surrounding zoning. She said that to the west, northwest the zoning along Broad Street was Corridor Mixed-Use zoning and to the east and south the zoning was Residential Mixed-Use which includes the Mill Village neighborhood.

She stated that the applicant wanted to open a retail furniture store in the former mill. She said that they owned two (2) other stores in the United States. She pointed out that the applicants had an affinity for older buildings and would like to rehabilitate the mill. She said that this use would be a catalyst for redevelopment in the downtown area, tying the downtown area more closely to the mill site.

She said that the applicant wanted to perform minimal upgrades to the building consisting of cleaning the building up and removing the fence from the front and sides of the property. She indicated that the fence at the rear portion of the site would remain for safety and security reasons.



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She stated that the parking areas would be resurfaced and re-striped. Along with the landscaping currently on the property, the applicants would also be installing extensive landscaping. She indicated that there was a Concept Plan which had been approved by the Planning Staff. Copies of the plan were provided to the Board for review of the landscaping plan.

She said that the plan showed three hundred seventy-four (374) parking spaces that currently existed on the site. She pointed out to the Board that the proposed use required three hundred thirty (330) parking spaces, which was more than adequate.

She reiterated that the Findings of Fact would need to be approved by the Mooresville Town Board of Commissioners. She indicated that the proceeding would be quasi-judicial, and the Commissioners should not be in attendance at this portion of the meeting.

Indicating the Comprehensive Land Use Plan, Mrs. Gable said that the mill site was outlined in red and the residential area was denoted in tan. She stated that the use was not in keeping with the Plan. She said that the Staff would be addressing this issue as there were several other portions of the area along Broad that were not residential in nature. She said that the request did, however, comply with the Downtown Master Plan, which recommended the mill site for a mixed-use redevelopment.

She introduced Mr. Neil Burke, Transportation Planner, saying that he would be answering questions concerning the Traffic Impact Analysis or transportation issues. Mr. Burke began by stating that on March 2, 2010 the Staff met with North Carolina Department of Transportation representatives to have a scoping meeting for a traffic analysis for the reuse of the mill site.

He indicated that a trip generation study was conducted by the Planning Staff, which determined that the daily amount of trips for the use technically would trip a Traffic Impact Analysis. He stated that the threshold was currently five hundred (500) based on the square footage of the use which was ninety-nine thousand (99,000) square feet. He said that the mill site would generate five hundred one (501) daily trips. He pointed out that the decision was made between the Planning Staff and the North Carolina Department of Transportation representatives to submit a technical memorandum describing the trip generation, trip distribution and trip assignment. He said that the memorandum would suffice in lieu of a Traffic Impact Analysis because there were no improvements at the site that would justify the nature of the trips.

He pointed out that one aspect of the use that needed to be resolved was the increase in semi-truck traffic in the vicinity of the site. He said that the Staff had developed a proposal for truck routes to and from the area from Interstate 77, northbound and southbound. He explained that the Technical Memorandum was submitted to the North Carolina Department of Transportation the prior week and was still under review.



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He invited questions from the Board members. Mr. Robertson, referring to truck access, asked where the loading and unloading docks were located. Mr. Burke said that the trucks would access the area via Brawley Avenue from Main St. He indicated that there was also access from College Street, but this would not be the primary loading and unloading area for the site.

Mr. Nail asked if the applicants were present. Mrs. Gable indicated that they were in attendance. She further stated that the Planning Staff was recommending approval of the request with the Concept Plan as a condition of approval indicating proposed landscaping of the site. She said that the additional conditions were that the parking area would be resurfaced and restriped and that the applicant would work with the Staff and North Carolina Department of Transportation to establish a truck route for deliveries to the site.

She stated that the applicant intended to engage the public in the development of future phases. They would be having community meetings to make the facility an integral part of the community where it is located.

Mr. Nail invited the applicants to approach the podium to speak. Ms. Yovanna Alvarez and Mr. Michael Bay, owners of the property, provided an enlarged copy of the plan for the Board's review. They also made a Power Point presentation showing the pictures of their facility in Fort Lawn, South Carolina. They also showed examples of the English garden they planned for the former Burlington Mill site.

Mr. Nail asked Mrs. Gable if the landscaping in the parking area would be adequate. Mrs. Gable replied that the applicants were adding quite a bit of landscaping. Ms. Alvarez stated that they were presenting their plans for the Mooresville project. She said that the request for the Conditional Use Permit was for Phase One (1) of the project which was the main building which fronted South Main St. She explained that the entire area for the mill site was twenty-eight point five (28.5) acres, which would be developed in five (5) phases.

She indicated that the building would house a furniture and rug store, with merchandise coming from around the world. She stated that main building would be considered the mercantile building, which would be very large. She said that once the store opened, the surrounding neighborhood would increase in value. She said it would also bring increased revenues to the adjacent properties.

She stressed that the owners wanted to keep the integrity of the building and all of its components. She said that they felt very strongly about preserving all of the buildings on the site. They did not want to tear any of the buildings down, but they wanted to preserve the beauty of the structures. She stated that they would be cleaning up the inside of the main building and would not be destroying any part of it.

She indicated the main entrance to the facility and its adjacent parking. Seventy-four (74) spaces were to the left and the remaining three hundred (300) spaces were located to the right of the entrance. She



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said that there was access to the handicapped ramps from the parking area. She said that two (2%) percent of the spaces were dedicated to handicapped parking.

She directed the Board's attention to the plan for landscaping, which would include an English Garden as part of the design project. She said that they were working with Architect John Brooks from London, and he was offering his expertise in designing English gardens. She stated they the owners wanted to create an atmosphere for the community in which people could gather and enjoy their shopping experience.

She said that the perimeter of the property would consist of canopy trees for shade along the right-of-way. She explained that there would be groupings of trees to provide shade, so that people could enjoy the outdoors. She said that they had worked closely with the Planning Staff to make sure that the species of plants were in compliance with the landscaping specifications. She said that they would be planting maple and oak trees at the site with camellias being planted around the parking areas, in keeping with the English garden theme. Pictures of the various species of plants were included in the Power Point presentation.

Ms. Alvarez showed examples of different types of courtyards that might be created at the rear of the building. She said that this would make the area more appealing to the neighboring community and encourage people to congregate there. She said that the owners were also considering the creation of a playground. She also explained that the owners wanted to have the neighbors involved throughout the whole project.

She reiterated that the fencing in the front and sides of the building would be removed. She said the fence in the back would remain for the time being for security reasons.

Mr. Bay then spoke to the Board. He began by explaining that his company was based in New York and was only nine years old. He said that in the last seven years the company had focused on buying older buildings to rehabilitate for furniture stores. He said the older mills were ideal for this type of use because large areas of space were necessary.

He said that the company imported furniture from all over the world, especially Europe and the Far East. He said that they were able to keep their prices low by paying for the merchandise in advance and by buying directly from the manufacturer. He said that they did not use agents or salesmen in purchasing their goods. He said that this allowed the company to pass the savings to their customers. He also said that by owning the mills and by not having a huge overhead they were able to offer the best quality furniture to their customers at the very best prices in the world.

He said that they do not advertise much, at less than one (1%) percent of their sales. He stated that the stores best advertising was word of mouth.



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He explained that they just wanted to fix the buildings. He said that their company was here to stay. He expressed his gratefulness for the kindness and helpfulness that his company had received from everyone, especially from the Staff. He said that his company was prepared to work one hundred (100%) percent with the Town of Mooresville.

Mr. Robertson stated that he had once lived across the street from one of the parking areas and that he had worked at the mill. He said he was pleased that the facility was going to be used again.

Mr. Ogburn asked that as the project progressed what type of other retail uses might enhance the proposed furniture and rug store. Mr. Bay said that in the future, after the furniture store opened, there might be a café or restaurant. He said that the other buildings would be restored in different phases. He indicated that the buildings would need work, citing the graffiti that was painted on the end of the main building. He presented pictures of a friend's project, Buttercup, L.A., in Los Angeles as examples of the rehabilitation of older, larger buildings. He said that the mill site would look as good as the pictures shown, but that the mill building would not be painted and would retain the natural brick façade.

The Power Point presentation also included pictures of their Fort Lawn, South Carolina facility. Mr. Bay stated that the facility was five hundred thousand (500,000) square feet in size. He explained that it was purchased in May, 2008, and the store opened in September, 2008. He said the company paid taxes within the first year of business. He said that the business had done well, because the plan was a good concept. He stated that he personally felt that the concept of keeping a low overhead was the only one that would work with a furniture store. He said, "Buy it right; sell it right" was his idea for success. He said that the town would also benefit from the tax revenues.

Mr. Nail told the applicants that he believed they had tremendous support from the community and the Town of Mooresville.

ACTION: Mr. Martin made a motion to recommend approval of the request with the following conditions: The site plan be accepted as a condition of approval indicating proposed landscaping of the site; the parking lots be top coated and restriped and the applicant work with Staff and NCDOT to establish a truck route for deliveries to the site. Mr. Ogburn seconded the motion. The motion passed unanimously.

3. Consideration of a **REZONING** request from Ha Ha Roberts Limited Partnership. The property located at 735 S. Broad St., is further referenced as Iredell County Map PIN 4656-78-2476. The request is to rezone the property from GI-C (General Industrial-Conditions) to CMX (Corridor Mixed-Use).

Mrs. Edwards presented the request with a Power Point presentation. She explained that the property was located at 735 South Broad Street on the corner of Broad Street and Norman Drive. She said that the Comprehensive Land Use Plan indicated the area from McLelland Avenue to Norman Drive along



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Broad Street as Town Residential. She said that Town Residential was a traditional neighborhood type development and allowed for attached and detached buildings to preserve pedestrian friendly streetscape of the downtown area. She said the current zoning for the property was General Industrial with Conditions, and it was zoned in 1995. She explained that the conditions were added to deal with the industrial use that was formerly located in the building addressing the parking and screening. The current zoning permitted the development of light and medium intensity industrial uses and flex buildings, which were typically large in scale.

She stated that the applicant's request was to rezone the property to Corridor Mixed-Use, which provided for the development of high intensity, high density residential and mixed-use. She said that the zoning was intended to transition from larger scale regionally oriented non-residential uses to the smaller scale uses that provided services to neighborhoods in the area.

She then showed pictures of properties along Broad Street from Wilson Avenue to Norman Drive, indicating the various businesses and uses, including Two Men and a Truck, M-I Connection with outdoor storage of trucks and cable stock, a used car business, Gene Brannon's Dry Cleaners, Hooper's Auto Cleaning Service, a community pregnancy center, Southside Baptist Church and Moor Ballpark. She explained that there were a few homes in close proximity to the subject property, but she reiterated that the majority of the properties along that portion of Broad Street were businesses.

She indicated that a house behind Southside Baptist Church had been converted into an office use. She said that the properties across from the subject property along Main Street were Mill Village Houses. She showed the location of an apartment complex and the adjacent former Burlington Mills location. She said that the mill was in the process of being converted into a mixed-use commercial building.

She stated that the 2030 Comprehensive Land Use Plan showed the property as Traditional Neighborhood. She said that the vast majority of properties along South Broad Street were already commercial uses or at the very least non-residential uses. She said that the Staff was recommending approval of the request, although the request did not meet the 2030 Comprehensive Land Use Plan. She explained that the request would move the property closer to compliance with the Plan.

She indicated that while researching the request the Staff was made aware that an amendment to the 2030 Comprehensive Land Use Plan for the area would be necessary. She said that Traditional Neighborhood was no longer an appropriate designation for the South Broad Street area.

Mr. Robertson, referring to a picture of the subject property, asked if the big, metal building at the rear of the property was attached to the subject property. Ms. Edwards indicated that the property was just one building.

Mr. Michael Martin, representing the owner of the building, stated that the owner, Mr. Hershel Roberts, was out of town. He said that the building was one building consisting of approximately



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ninety-six hundred (9600) square feet. The front part of the building was twenty-nine hundred (2900) square feet of office use. He said the center of the building was thirty-two hundred (3200) square feet of warehouse storage use, and the rear portion was thirty-two hundred (3200) square feet of warehouse and office uses. He said that it was in the rear portion of the building where Mr. Roberts ran his business. He explained that the building once housed an auto parts store. He said that at one time there was an older building to the left of the location, but Mr. Roberts received permission from the Town of Mooresville to have the building demolished. He said that the building had become an eyesore and was old and dilapidated.

Mr. Robertson asked if all three portions mentioned were a part of the request. Mrs. Edwards stated that all of the mentioned portions were just one building. She indicated that the building was merely divided into three parts. Mrs. Edwards reiterated that the building to the left of the subject property, Dave Brown's old grocery store, had indeed been torn down.

Mr. Robertson again asked if the metal building that appeared to be attached to the main building was included in the request. Mr. Martin cleared up the confusion about the metal building by explaining that the building was primarily block with some metal on the sides. He stated that Mr. Roberts purchased the building in 2006 and subdivided the building into three parts. Prior to Mr. Roberts' purchase of the property, the front of the building was the showroom and service department for the auto parts store with the back area being used as a storage area.

Mr. Robertson asked if the property extended to the fence at the rear of the property and the golf course. Mrs. Edwards said that there was a small portion of land between the subject property and the Town of Mooresville Municipal Golf Course.

Mr. Danny Martin asked Mr. Michael Martin if there were any plans for the property. Mr. Michael Martin stated that there were no plans for the property. He said the last tenant, a heating and air conditioning contractor, had left a year ago. He explained that General Industrial zoning was not conducive to attracting tenants. He said he believed the building was not large enough for a General Industrial use. He said that the applicant wanted the property rezoned to help to lease the facility. He said that General Industrial zoning would allow for many uses that Mr. Roberts did not want to lease the property for such uses.

ACTION: Mr. Robertson made a motion to adopt the Statement of Reasonableness and Compliance and to recommend approval of the request. Mr. McGlothlin seconded the motion. The motion passed unanimously.

4. Consideration of a **REZONING** request from Lake Davidson Commercial, LLC, Gabriel Family Properties, LLC and Mt. Mourne Investors, LLC. The property located at Langtree Rd., Transco Rd. and Hwy. 115, is further referenced as Iredell County Map PIN's 4645-72-4927, 4645-74-7147, 4645-74-9116, 4655-04-2739, 4655-03-2773, 4655-02-3305 and 4655-12-5467. The request is



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to rezone the property from R-3 (Single-Family Residential-3) and NMX (Neighborhood Mixed-Use) to VC (Village Center).

Mr. Brown presented the request along with a Power Point presentation. He began by stating that the properties were a formation of a consortium of owners represented by Lake Davidson, LLC, Gabriel Family Properties, LLC and Mt. Mourne Investors, LLC. Indicating the locations of the properties on the Subject Property Map, Mr. Brown explained that the request was the result of three years of work on the part of the applicants and the Planning Department.

He said the overall acreage of the properties was one hundred seventy-three (173) acres with most of the properties located along NC Highway 115 and Norfolk Southern "O" Line corridor which was zoned Single-Family Residential-3. The remaining parcel, he stated, was zoned Neighborhood Mixed-Use. He said the zoning was established in 2003. He explained that the request was to rezone the properties to Village Center with the intent to allow for development in accordance with the Town of Mooresville planning policy.

He stated that the site was encumbered by the Watershed-IV Critical Area Catawba-Lake Norman District. He indicated that the watershed would limit the impervious coverage on the site as development would occur. He said that the restrictions had been in place since 1998, and the properties would probably be developed under the high impervious option. The option would limit the amount of impervious coverage to fifty (50%) percent.

Citing the 2030 Comprehensive Land Use Plan, he said that the general area was designated to support office and employment center types of uses. He explained that there was greater detail concerning the area within the Mount Mourne Small Area Plan, which supported employment and office type uses along with more urban uses. These uses would provide support for the surrounding area and the existing employment centers such as Lowes Home Improvement and Lake Norman Regional Medical Center. He said that the area would be a mixed-use site in a more urban form.

He explained that the request required improvements associated with the Comprehensive Transportation Plan. He showed the Board the location of the East/West Connector Alignment in relationship to the properties. He said that the East/West Connector would extend Langtree Road from its current termination at NC Highway 115 further south at a new railroad crossing. He said that Langtree Road would be extended to Shearers Road, NC Highway 3 and eventually to NC Highway 152 corridor. He indicated that this would allow for east/west movement in the Town of Mooresville jurisdiction. He said that development of the properties could potentially lead to the first phase of construction for the extension of the East/West Connector. He said that the alignment study was currently under the consideration of the Town of Mooresville Board of Commissioners. He said that Public Hearings would take place during the process to establish the location of the new rail crossing.



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He said that the Staff was recommending the approval of the request because of the compliance with the Village Center District requirements. He stated that the rezoning would facilitate development according to the 2030 Comprehensive Land Use Plan, the Comprehensive Transportation Plan and the Mount Mourne Small Area Plan.

He invited questions from the Planning Board members. Mr. Martin asked if the proposed new railroad crossing was located across from Hobbs Road. Mr. Brown replied that the alignment study showed that the existing crossing would remain, but that Langtree Road would be aligned further to the south of the existing crossing. Mr. Martin asked if Langtree Road would be aligned closer to the subject properties. Mr. Brown said that the alignment would be closer to the properties. Mr. Brown noted that strategically the vertical alignment of Langtree Road would cross the properties. He also said that the 2008 Zoning Ordinance required the dedication of right-of-ways as development occurred. It also required the development of the alignment, which the applicants understood.

Mr. Robertson stated that the request had been presented in the past. Mr. Brown said that that request was for the property on the east side of NC Highway 115, indicating the parcel on the Subject Property Map. Mr. Robertson said that at the time of the first request, there had been a question about a cemetery on the property. Mr. Robertson asked if the question had been answered.

Mr. Steve McCloud said that the property owners had hired outside experts. At the time the conclusion was that it could not be determined if there was a cemetery located on the parcel. He said that the experts did find vegetation that could indicate a cemetery. He further stated that the area in question was being dedicated as green space and would not be disturbed. He said that the area was located to the southern end of the property in question.

Referring to the Academy Monument on the southern end of the property, Mr. Robertson asked if the Academy site had been located. Mr. Brown stated that the site had not been specifically located, but that the monument was located in the general area. Mr. McCloud explained that the only area of historical significance was determined to be on the southern portion of the property, which was designated as park green space.

Mr. Robertson asked if the driveway into Mrs. Holthouser's property was on the site being discussed. Mr. Roy Goode, a partner of Steve McCloud's, replied that the driveway was located in the middle of the bowtie shaped property located on the east side of NC Highway 115. He said that her existing easement was located on the north side of the parcel in question. Mr. Robertson asked that if the property was developed, how Mrs. Holthouser would access her property. Mr. Goode said that she would access her property via the easement on the northern part of the tract of land. He said that the East/West Connector would bisect the center of the parcel, and it would stub into her property with public access as development occurred.



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Mr. Robertson asked if the property on the east (west) side of NC Highway 115 was formerly the Cowan property. Mr. McCloud said that the property was formerly the Plato Kelly property, along with the Donaldson's property. Mr. McCloud stated that the large piece of property on the west side of NC Highway 115 bordered the remaining forty-one (41) acres of the Plato Kelly property that extended to Bridges Farm Road. Mr. Robertson explained that the Subject Property Map did not show the location of the houses on the properties. Mr. Goode indicated the location of the Cowan property.

ACTION: Mr. Steen made a motion to adopt the Statement of Reasonableness and Compliance and to recommend approval of the request. Mr. Martin seconded the motion. The motion passed unanimously.

5. Consideration of a **TEXT AMENDMENT** request from the Town of Mooresville to clarify the sections regarding Electronic Gaming establishments. The Text Amendment is to **13.2 Definitions; 5.3.3 (8) Retail Sales and Service; 5.1.4 Table of Allowed Uses; and 9.1.4 Off-Street Parking Standards** of the Town of Mooresville Zoning Ordinance.

Mrs. Heck presented the request from the Town of Mooresville, along with a Power Point presentation. She said that the Text Amendment was to address electronic gaming operations, also known as Internet Sweepstakes and Cafes. She stated that a definition was needed for these operations in the 2008 Zoning Ordinance. She explained that there had been numerous requests for this type of use recently.

She said that these uses were becoming very prolific across the state, because the North Carolina Legislature had failed to pass a law that would place restrictions on this type of use. She said part of the reason was that the use was not considered a lottery and was considered in the genre of the sweepstakes games that places like McDonald's have. She said that apparently the members of the legislature did not want to address this issue.

She explained that these types of uses tended to be located in low income areas and in unoccupied shopping centers. It was also possible to have more than one of these uses in the same area. She said this was addressed with the requirements proposed in Section 5.3.3. She indicated that in the Table of Uses the use would be permitted in Neighborhood Mixed-Use, Corridor Mixed-Use, Highway Business, Village Center and Planned Campus with Conditions Zoning Districts. The reason the use was allowed in the mentioned zoning districts was because of the extensive list of requirements that would have to be met by the applicants.

She indicated that the parking requirements were one parking space per machine and each employee. She used the example of a two thousand (2000) square foot building where the applicant could install twenty machines. This location would require twenty (20) parking spaces with additional parking spaces for each employee. She said most shared parking areas would not generally be sufficient for this type of business, which could possibly be a deterrent.



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She indicated that there would be a distance requirement as separation from similar uses and residential uses. She stated that the requirements for the hours of operation, the number of machines and the distances were gleaned from numerous proposals of other municipalities. She stated that this was an item on the Town of Mooresville's Listserv, which is a planning forum where information is shared with other communities. She said that the numbers were consistent with those she used for comparison, which the Staff thought were reasonable.

She said that the businesses would have to meet all of the permitting required by the State of North Carolina. She said she believed that the State Legislature would address this issue at a later date. She stated that she believed the businesses might be taxed heavily as a control for this type of use.

She explained that the Text Amendment would allow the Staff the ability to control the number of these uses within the Town of Mooresville Zoning jurisdiction and also the locations of such uses. She invited questions from the Board.

Mr. Martin asked that if the proposed required distance from religious or school sites was sixteen hundred (1600') feet, why would not the distance be the same for residential areas. He said that he would not want to live close to such a use. He asked if it was a state requirement. Mrs. Heck replied that it was not a state requirement, but that she had created the numbers in the Text Amendment based on the numbers from other jurisdictions. She said that some jurisdictions were placing a moratorium on such uses and not allowing these across the board. She noted that the Board could change the distance and make the recommendation to the Mooresville Board of Commissioners. She said that the distance was a starting point in developing the Text Amendment. Mr. Martin indicated that he believed the distance should be the same for residential areas, as well as religious and school sites.

Mr. Steen asked how many of these types of businesses were in Mooresville. Mrs. Heck said that she believed there were three or four already in existence. She further stated that she believed that there would be an increase in requests in the future. She reiterated that since the State Legislature had not regulated this type of use, the request would allow the Staff to better manage future requests.

Mr. Martin stated that establishments such as these stayed open all night. He said that he had driven by one located on US Highway 21 around midnight, and it was still open. Mrs. Heck said that this was possible because there was no regulation for these types of internet businesses. She pointed out that the Text Amendment, once approved by the Town Board of Commissioners, would regulate the hours of operation from 8 a.m. until 10 p.m.

Mr. Steen asked if the Text Amendment was approved would the existing operations would be grandfathered, in regards to the distance requirement. Mrs. Heck affirmed that this was true. She stated that there were no such businesses operating side by side which would create a nonconforming use.



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Mr. Martin said he wanted to recommend the same distance requirements for residences, schools and churches. He said that residents would have as much concern about this matter as he did.

ACTION: Mr. Martin made a motion to adopt the Statement of Reasonableness and Compliance and to recommend approval of the request with the minimum distance from residential zoning districts be changed from three hundred (300') linear feet to sixteen hundred (1600') linear feet. Mr. Ogburn seconded the motion. The motion was unanimously passed.

6. Consideration of a **TEXT AMENDMENT** request to amend the process for approval of a Conditional Use Permit. The text change would remove the Planning Board consideration from the process as is defined in **Section 2.3.3 Procedure** of the Town of Mooresville Zoning Ordinance.

Mr. Brown presented a Power Point presentation for the request. He explained that the need for the request was realized as the Staff learned more about the quasi-judicial process. He said that historically, as a community, the legal requirements had not been adhered to correctly. Referencing the first item on the April 8 Agenda, he stated that in the past when a Conditional Use Permit request was presented there was open discussion, as the Planning Board's proceedings were legislative. He indicated that minutes including dialogue from the applicants and the public were generated during the proceeding. He further indicated that the minutes, as public records, did not qualify as a standard for the quasi-judicial process.

He continued by explaining that the Planning Board minutes were not available for cross examination at the Mooresville Town Board of Commissioners Public Hearing, as is required in a quasi-judicial proceeding. He stated that the Town Board was required to hear testimony that was directed specifically at the Findings of Fact. He said that the public record generated in the Planning Board proceeding became hearsay evidence for the Commissioners due to their inability to cross examine the Planning Board members.

He stated that there were communities within the state of North Carolina that convened the Planning and Town Boards jointly when the Planning Board was involved in the decision making process. He explained that after a Public Hearing the consecutive Boards would make a decision. He said that he thought that this would be cumbersome for both of the Mooresville Boards.

He said that the Staff was recommending that the Planning Board approve the recommendation to remove the Board's consideration from the Conditional Use Permit process. He said that the Text Amendment was to amend Section 2.3.3 of the Town of Mooresville Zoning Ordinance. Referring to the Staff Analysis and a flow diagram, Mr. Brown pointed out the changes to the members of the Board.



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Mr. Martin asked if the Planning Board would not receive Conditional Use Permit requests. Mr. Brown replied that the Board would not.

Mr. Steen observed that this change would streamline the process, and it made sense to him. Mr. Nail reiterated that only the Town Board would receive the requests, if the Text Amendment was approved. Mr. Martin stated that the Town Board made the final decision for such requests. Mr. Brown said that this Text Amendment would maintain the integrity of the quasi-judicial process, which was limited to the flow of information and was required to be held as a Public Hearing.

Mr. Nail pointed out that the applicants would still work with the Planning Department Staff prior to the request being presented to the Town Board. Mr. Brown explained that the Board of Adjustment would continue to conduct Public Hearings in a quasi-judicial process.

Mr. Brown mentioned that there would be a seminar in May in which the Boards and Staffs from surrounding communities would receive information about the quasi-judicial process along with other information pertaining to Planning. He said that this information would be forwarded to the Board.

ACTION: Mr. Robertson made a motion to adopt the Statement of Reasonableness and Compliance and to recommend approval of the request. Mr. McGlothlin seconded the motion. The motion passed unanimously.

7. Consideration of other business the Board may consider.

There was no other business.

ACTION: Mr. Steen made a motion to adjourn the meeting. Mr. Ogburn seconded the motion. Mr. Nail adjourned the meeting at 7:09 p.m.