



## Planning Board Minutes January 14, 2010

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### Members Present:

**David Nail, Chairman**

John Robertson, Vice Chair

Allen Brawley

Danny Martin

Steve McGlothlin

Larry Stamm

David Steen

### Also Present:

Craig Culberson, Senior Planner

Jim King, Senior Planner

Neil Burke, Transportation Planner

Mandy Edwards, Zoning Administrator

Tammy Heck, Zoning Administrator

Gary Styers, Fire Marshall

John Finan, Public Works Director

Chris Carney, Commissioner

Rhett Dusenbury, Commissioner At Large

Mac Herring, Commissioner

Angela Thompson, Administrative Support Specialist

Mr. Nail opened the meeting with prayer at 6:14 p.m.

1. Approval of the minutes of the November 12, 2009 Planning Board meeting.

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

2. Approval of the minutes of the December 10, 2009 Planning Board meeting.

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

3. Approval of the minutes of the December 10, 2009 Joint Board Workshop.

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

4. Consideration of the Lake Norman Regional Bicycle Plan to be adopted by the Town of Mooresville.

Mr. Burke introduced Mr. Bjorn Hansen, Transportation Planner for Centralina Council of Governments. Mr. Hansen conducted a Power Point presentation concerning the Lake Norman Regional Bicycle Plan. A copy of the presentation is on file in the Planning Department.

Mr. Stamm asked how long it would take to implement and complete the Lake Norman Regional Bicycle Plan. Mr. Hansen stated that each section of the route had a different schedule. He cited that the Brawley School Road section was already underway. He also stated that the Town of Mooresville had applied for and been awarded funds from Congestion Mitigation and Air Quality (CMAQ) for bicycle lanes. He stated that the size of the project would impact completion of sections along the route. He said that the plan had been prioritized and would be guided by the North Carolina Department of Transportation.



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Mr. Steen asked if there would be some form of education for motorists and bicyclists. Mr. Hansen said that there would be brochures which would list the regulations for motorists and bicyclists sharing the roadways. He stated any violations of the rules would be the responsibility of local law enforcement agencies.

Mr. Stamm commended everyone who had worked on the project.

**ACTION: Mr. Stamm made a motion to approve the recommendation for an endorsement of the Lake Norman Regional Bicycle Plan. Mr. Steen seconded the motion. The motion passed unanimously.**

5. Consideration of a **CONDITIONAL USE PERMIT** request from Combs Concrete. The property located at 124 Bandit Lane, is further referenced as Iredell County Map PIN 4657-45-3125. The request is for building contractor use.

Mr. Culberson presented the request by stating that the property was located at 124 Bandit Lane in the northwest quadrant at the intersection of NC Highway 150 and US Highway 21. He indicated that the building had previously been used as an office with outdoor storage for the US Tobacco Company. He said that the property was zoned Highway Business (HB) and that the Town of Mooresville Zoning Ordinance required a Conditional Use Permit to allow for a contractor's office facility.

He stated there was an existing ten thousand (10,000) square foot building on the site, and that the applicant's intent was to construct a five thousand (5000) square foot addition to that building. He stated that the parking area was to be expanded to facilitate the storage of vehicles and equipment, which was allowed in Highway Business (HB) zoning.

He indicated that the property was bounded on the north by an existing industrial facility, and that it was bounded to the east and south by Mooresville Ford. He also indicated that the property was in close proximity on the west by an equipment rental and storage facility. He said that the property was within an area of mixed commercial uses. He said that the request was in keeping with the provisions of the 2030 Comprehensive Land Use Plan, which indicated that the area was Corridor Mixed-Use (CMX) development.

He indicated that the property would be screened along the perimeter as was required by the Town of Mooresville Zoning Ordinance. He stated that there was landscaping on the property but that it would be brought up to the current Town of Mooresville standard with regard to the street frontage and the parking areas.

He said that the Planning Staff believed that the request would meet the criteria of the Findings of Fact, and the Staff recommended approval of the request.

Mr. Nail asked if there would be any new landscaping at the location. Mr. Culberson, referencing the Site Plan, stated that the majority of the landscaping would be new and would meet the provisions of the Town of Mooresville Zoning Ordinance. He further stated that if the Town Board of Commissioners approved the Conditional Use Permit request, the applicant would provide the Planning Staff with a fully engineered plan to address all of the landscaping requirements.

Mr. Nail asked if the parking was adequate for the size of the building. Mr. Culberson said that it was adequate.



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Mr. Robertson asked if the existing parking would be expanded. Mr. Culberson indicated that some trees would be removed to allow for the additional paving for parking. Mr. Culberson further stated that the property was located in the Protected Area of the WS-IV Catawba-Lake Norman Watershed, which would limit the impervious coverage to seventy (70) percent. He also said that the applicant would have to account for storm water retention on the site.

Mr. Robertson asked about a structure near the rear of the property. Mr. Culberson stated that it was a dumpster, and that it would be enclosed to match the building's exterior. He also stated that the original building was a brick structure, and the five thousand (5000) square foot addition's exterior would match the original structure.

Mr. Steve Gentry of Piedmont Properties stated that he was representing the owner of the property, Combs Concrete. He said that he had a letter from the adjoining property owner, Mooresville Ford, for the Board Members' review. He stated that Mooresville Ford was offering their support to Combs Concrete in requesting the Conditional Use Permit.

Mr. Stamm asked if the property owner or Mr. Gentry had spoken with anyone at the rental equipment facility. Mr. Gentry stated that he had not. Mr. Culberson explained that the rental equipment facility was not an adjacent property. Mr. Nail asked where the rental center was located, and Mr. Culberson indicated its location.

Mr. Stamm asked what the storage area would be used for. Mr. Gentry stated that transportable construction equipment would be stored in the storage area. Mr. Kevin Combs of Combs Concrete said that the equipment included trucks, trailers, backhoes and skid loaders.

**ACTION: Mr. Stamm made a motion to approve the request. Mr. Martin seconded the motion. The motion passed unanimously.**

6. Consideration of an **AMENDMENT** to a **CONDITIONAL USE REZONING** request from Langtree Properties LLC. The property located at the northeast, northwest and southwest quadrants of Interstate 77 at Langtree Road, is further referenced as Iredell County Map PIN's Tract A: 4645-65-0419, 4645-55-9147, 4645-55-5274, 4645-54-7453, 4645-54-7113, 4645-53-7786, 4645-54-0923, 4645-54-5634; Tract B: 4645-42-1148, 4645-42-4209, 4645-42-5327, 4645-42-8334, 4645-41-6595, 4645-41-4176, 4645-40-4900, 4645-40-9657, 4645-51-2406, 4645-51-2686, 4645-51-0776, 4645-52-3413; Tract C: 4645-64-8060, 4645-63-6831, 4645-63-4877, 4645-64-3053, 4645-64-5225, 4645-64-5506, 4645-64-7513, 4645-64-9571, 4645-65-8489, 4645-75-3673, 4645-75-3254, and 4645-74-2993. The request is to **AMEND** the existing Conditional Use Plan.

Mr. Culberson began the presentation by stating that the request by Langtree Properties, LLC was an Amendment to a Conditional Use Rezoning. He indicated that the properties were located in the northeast, northwest and southwest quadrants that were adjacent to Interstate 77 and Langtree Road. He explained that the properties were zoned Village Center with Conditions. He stated that the request was not to change the current zoning but to amend the existing plan, which was approved in December 2006. He said that the plan had been amended in 2007 and in December 2008. Referring to the Site Plan he stated that Tract A was the northwest quadrant, Tract B was the southwest quadrant and Tract C was the northeast quadrant.



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He indicated that the request pertained to Tract A of the original 2006 proposal on which a hotel and conference center had been approved. The original approval was for a hotel with two hundred seventy (270) rooms with approximately thirty-five thousand (35,000) to forty thousand (40,000) square feet of conference space. He stated that the present request was to relocate the hotel and conference center to Tract B on the southwest quadrant. He said that Tract B was approximately ten (10) acres. He said that the current request was to amend the plan for the relocation of the hotel and conference center and to allow for three hundred (300) rooms with approximately eighty thousand (80,000) square feet for the convention space.

He indicated on the map that Tract B was bounded by Interstate 77, Langtree Road, Mecklynn Road and the south bound on-ramp from Exit 31. He stated that Tract A and Tract C indicated commercial space and dwelling units. He said that a one hundred twenty-five (125) room hotel was indicated on Tract B of the original plans and would be moved to Tract A as part of the current request.

He said that Tract A would have one hundred seventy-seven thousand (177,000) square feet of non-residential use, along with the hotel and up to three hundred eighteen (318) residential units. He stated that Tract A did not have a plan associated with it.

He continued that the plan for Tract B indicated four hundred eighty thousand seven hundred fifty (480,750) square feet of nonresidential use, which included the convention center. Tract B also included the three hundred (300) room hotel and three hundred eighty-four (384) residential units.

He stated the Tract C plan indicated four hundred thousand (400,000) square feet for nonresidential uses. He stated that the request included the addition of 7.19 acres from the previously approved plan.

He stated that Tract B was further along with development, and there were several conditions the Staff was including in the recommendation. He said that the entire project was located within the WS-IV Critical Area of the Catawba-Lake Norman Watershed, which would limit the development to the maximum fifty (50) percent impervious surface. The previous plan allowed for all three tracts to share the impervious allowance. Mr. Culberson stated that the revision to the plan would require that each tract account for the impervious allowance individually. He indicated that Tract B included a manmade lake which would serve as an amenity and as a storm water recapture area.

Mr. Culberson stated that a Traffic Impact Analysis had been performed for the entire site for the initial development request. He directed the Board members to review a recent letter, included in the member's Agenda packets, from Mr. Patrick A. Norman, District Engineer for the North Carolina Department of Transportation. He said that the letter stated that Tract B would be developed in two (2) stages of Phase B1 and Phase B2. The B1 Phase would include the hotel and conference center, as well as several outparcel areas. He said the letter stated that Phase B1 could be advanced under the auspices of the currently approved Traffic Impact Analysis. He further stated that the letter required that a new Traffic Impact Analysis be performed when development progressed to Tracts A and C, along with Phase B2.

He said that there were no current plans in place for Tracts A and C. He stated that the applicant would have to present the plans for these tracts to the Planning and Town Boards once these were formalized. He pointed out that the plans did show a commercial subdivision on Tract C on which the lots could be sold incrementally. The



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lots could also be reconfigured as long as the number of lots did not increase above eighteen. He stated that the current plan would allow for this to take place and be approved by the Staff.

He said that the Staff did recommend approval of the request with seven conditions as follows:

1. The Exhibits CV0.0, CV2.0 and CV3.0 be accepted as conditions of approval including the seven development notes listed on Sheet CV0.0.
2. The letter supporting the roadway improvements from the NCDOT be included as a condition of approval.
3. The roadway improvements listed for Tract B1 must be completed prior to vertical construction. The bonded improvements at the intersection of NC 115 and Langtree Road must be re-evaluated to determine if they need to be constructed in conjunction with the development of Tract B1.
4. A revised Transportation Impact Analysis must be completed and approved by the Town of Mooresville and NCDOT before any further development takes place on Tract B2, Tract A or Tract C.
5. A complete site plan will have to be submitted and approved for Tracts A and C before any development may take places on said tracts.
6. Further revision and approval of the subdivision plat for Tract C may be done administratively as long as the number of lots does not exceed the number shown on the Exhibit CV0.0.
7. Any subsequent development of the site(s) that requires additional offsite roadway improvements must be approved by the Town Board of Commissioners as an amendment to the plan.
8. The original seventeen conditions from the 2006 approval would remain in place unless amended in the current request.

He noted that the December 2008 Amendment approval required the bonding of the improvements at the NC 115 and Langtree Road intersection. He pointed out that there was discussion of a possible realignment of Langtree Road with an East/West Connector. Mr. Culberson also said that the East/West Connector might require the closing of the Norfolk/Southern railroad crossing at Langtree Road. This condition was to allow the Town Manager to evaluate whether improvements needed to be made at the intersection.

He also stated that the seven (7) development notes included on Exhibit CV0.0 should also be conditions for the approval of the current request.

Mr. Robertson asked how the growth on the quadrants was to be controlled in order that the area would not resemble that of Exit 36 at the intersection of Interstate 77 and NC Highway 150. Mr. Culberson said that there was a document by Langtree Properties, LLC which included seventy-eight pages of design criteria, and all development on the three quadrants had to meet the criteria. These included building form, landscaping and parking. Mr. Robertson replied that he was referring to the random types of businesses that were located on the quadrants around Exit 36. Mr. Culberson stressed that the Village Center zoning would require a Conditional Use Permit for types of drive through facilities. He pointed out there were constraints that were in the Village Center Zoning District that were not in the Highway Business Zoning District. He stated that a Village Center Zoning District would not lend itself to individual types of development such as existed at Exit 36.

Mr. Stamm stated that he remembered long discussions about the tracts when the December 2006 request was presented to the Planning Board. He said that at the time the idea of a ball field or soccer field had been discussed. He indicated that it appeared that it was no longer being proposed. Mr. Culberson said with the initial



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request that Tract C was to have been the green space for the whole development. He stated that each tract would not have had to support its own impervious coverage and open space requirements in 2006, 2007 and 2008. Mr. Stamm indicated to Mr. Rick Howard that in December 2006 Langtree Properties, LLC had proposed to have some type of ball field on Tract C for the use by the community. He commented that in the December 2006 request, the prospect of a field was the motivation of the Planning Board to recommend approval to the Town Board. He said that he did not see the field on the current plan. He asked if the concept of having a field was no longer viable. Mr. Howard stated that the idea was still possible. He cited that because of the Critical Watershed only fifty (50) percent of the property could be impervious; therefore, there would be opportunities to explore the option of a field. He further said that Langtree Properties, LLC had acquired more land, and there had been discussions with the Town of Mooresville about a possible park use in the southwest quadrant. Mr. Howard acknowledged that there was a need for green space in the area. Mr. Stamm stated that he personally wanted Langtree Properties, LLC to adhere as closely as possible to the plans of the December 2006 request. He stressed that he would still want consideration of a field in the plans for the area, regardless of which quadrant it might be located upon.

Mr. Stamm pointed out that there was a good deal of discussion concerning Tract C. He asked Mr. Howard what his firm envisioned for Tract C. He asked him what did Langtree Properties, LLC have planned for the eighteen lots on that tract. Mr. Howard replied that the uses for the lots would be non-residential and could include employment centers, various businesses and offices. He said that the development would resemble office spaces located near Exit 33. He stated that the architectural guidelines were the same for all three quadrants that were on the plan. He said that they did not intend to build anything that could be offensive to Lowe's Corporation or to his company.

Mr. Martin asked if the additional rooms for the hotel would cause the hotel to increase to another story. Mr. Howard stated that the hotel might be reduced in size by one story and that all of the additional rooms would be added horizontally. Mr. Martin also asked if there was a bond in place to improve the intersection of North Carolina Highway 115 and Langtree Road. Mr. Culberson affirmed that there was a bond in place.

Mr. Stamm asked that if the Town Board approved the current request, what would be the projected timeframe for completing development on Tract B, Phase 1. Mr. Howard stated that the realistic projection would be two (2) to three (3) years. He said that there was part of the development which might begin within ninety days. Mr. Stamm asked if that would include the hotel or convention center. Mr. Howard stated that it would include the residential and retail portions of Phase 1. He said that the reconfiguration of the hotel would require new site plans which would be submitted for approval. He indicated that this would be directed by the Hammonds Group and not Langtree Properties, LLC. He said his company would have control of development on the remaining acreage.

Mr. David Parker, attorney for Langtree Properties, LLC, referring to the conditions which were amended in 2007, asked Mr. Culberson to clarify the order of development. Mr. Culberson stated that in December 2006, the order of development was to be Tract A, Tract B and Tract C. The 2007 request to amend the plan changed the order to Tract B, Tract A and Tract C. He said that this condition would continue to exist with the current request.

Mr. Nail asked if the impervious surface ratio would pertain to each phase of Tract B. Mr. Culberson stated that all of Tract B would be required to maintain the maximum of fifty (50) percent impervious coverage.

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Ms. Katherine Marshall stated that Tract A on the Exhibit maps did not accurately show the location of Wade's Way. She said that there were seven properties on Wade's Way and that the deeds for the properties showed that Wade's Way ended at Alcove Rd. Mr. Parker acknowledged that Ms. Marshall was correct about the incorrect map.

Mr. Parker indicated that there had been discussion about a drive through on Tract B, Phase 1. He stated that the area where the drive through would be located was next to the highway. He asked that the conditions should include the provision for the drive through. Mr. Culberson stated that the topic had been discussed earlier in the week. He said that the request for the provision would allow Staff to administratively approve a drive through facility only on Tract B, Phase 1. Mr. Parker stated that there was interest being shown by a coffee shop. Mr. Robertson asked if the drive through would be at only one (1) location and not five (5) or six (6) locations. Mr. Parker indicated that the drive through would only be located in the service triangle, a five (5) acre section next to Mecklynn Road. He said that the request was for a drug store and coffee shop drive through. Mr. Seane Paone of ColeJenest and Stone confirmed that there were two (2) drive throughs proposed on the site.

Mr. Stamm asked why the drive through facilities were added to the plan without more notice to the Planning Board. Mr. Culberson stated that the discussion occurred after the Planning Board Agendas had been mailed. Mr. Stamm asked why there was not a more definitive plan for the types of businesses to be located at the site. Mr. Culberson stated that the discussion had occurred very recently. He stated that the Planning Board could add the requested condition to the plan. Mr. Martin asked if the two drive throughs definitely were for a drug store and a coffee shop. Mr. Brad Howard said that he could not disclose the names of the potential tenants. He assured the Board members that his firm was not anticipating a fast food restaurant with a drive through on Tract B.

Mr. Steen, referring to note seven on the development notes, asked if the request was different from the note on the development plan. Mr. Culberson said that note seven pertained to the drug store drive through. Mr. Parker suggested that a condition could be added that would not allow a drive through on the site of a restaurant which prepared full meals. Mr. Rick Howard stated that his firm did not want any type of business on any of the tracts which could potentially devalue the property and that of their neighbors. He continued by saying that the Village Center required certain types of amenities, and he did not want restrictions which would stymie the growth of the Village Center. He said that all property owners that located on the three quadrants had to abide by the guidelines administered by Langtree Properties, LLC. He reiterated that the Village Center requirements were also very restrictive. He stated that there were several business entities that had been in talks with Langtree Properties, LLC which would require drive through facilities.

Mr. Parker asked that Mr. Culberson speak to the issue of the drive throughs. Mr. Culberson, referring to the Town of Mooresville Zoning Ordinance, stated that the Village Center Zoning District would prohibit a fast food restaurant from locating on the properties; however, it would allow for a coffee shop. Mr. Parker concurred.

**ACTION: Mr. Robertson made a motion to approve the request subject to the original conditions of the 2006 request and as amended in 2007, adding the condition that two (2) drive through facilities may be administratively approved in Tract B1 only. Mr. Steen seconded the motion. The Statement of Reasonableness and Compliance was adopted. The motion passed unanimously.**



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7. Consideration of a **TEXT AMENDMENT** request from the Town of Mooresville to amend **Section 4.2.6 WS-II-BW Balance of Watershed,(4) 10-70 Provision Option, (A) Applicability**, of the Town of Mooresville Zoning Ordinance.

Mrs. Edwards began the presentation saying that the Text Amendment was to clarify the applicability section of the WS-II-BW Balance of Watershed 10-70 Provision Option. She stated that it would add an allowance for use in the Exclusive Industrial and General Industrial Zoning Districts. She indicated that the first highlighted text was not being added but merely moved. She also indicated the other changes within the Text Amendment which were highlighted and stricken.

She concluded stating that the Staff recommended approval of the Text Amendment to allow for the 10-70 Provision Option to be used in the EI (Exclusive Industrial) and GI (General Industrial) Zoning Districts to encourage development of employment center uses in the Tow of Mooresville jurisdiction.

Mr. Martin asked what was the purpose of the Text Amendment. Mr. Culberson explained that Mooresville was located within two (2) WS-II Watersheds, the Yadkin-Back Creek and the Yadkin-Coddle Creek. He stated that the maximum developable area was only thirty (30) percent. The State of North Carolina had a provision which would allow a maximum of ten (10) percent of the watershed area to be developed to seventy (70) percent to allow for development. He explained that the State of North Carolina adopted the Water Supply Watershed Ordinance in 1993. He said that the Town of Mooresville had approximately two thousand (2000) acres located within the watershed areas. He indicated that of the total acreage, ten (10) percent could be developed up to seventy (70) percent.

He said that the Provision would allow for higher industrial usage and job creation within the Exclusive Industrial (EI) and General Industrial (GI) Zoning Districts. He reiterated that this was a state provision. Mr. Culberson stated that the total number of acreage developed must be accounted for and development would cease after the allowed acreage was developed.

Mr. Martin asked if one individual had developed up to seventy (70) percent on ten (10) percent of the total acreage would an individual close by be allowed the same provision. Mr. Culberson stated that the 10-70 Provision would be awarded on a case by case basis. He also pointed out that the provision would require the approval of the Mooresville Board of Commissioners.

Mr. Culberson stated that by reviewing each request individually, the 10-70 Provision could be administered in a more responsible way. He used the example that one industry which employed ten (10) people would not be a likely candidate for the allowance, versus an industry that employed one hundred (100) people.

**ACTION: Mr. Robertson made a motion to approve the request and to adopt the Statement of Reasonableness and Compliance. Mr. Martin seconded the motion. The motion passed unanimously.**

8. Consideration of a **TEXT AMENDMENT** request from the Town of Mooresville to amend **Section 13.2 Definitions** and **5.1.4 Table of Allowed Uses**. This text amendment would clarify the different levels of auto sales.



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Mrs. Heck presented the request by stating the Text Amendment was to clarify different levels of auto sales. It would give applicants the opportunity to have auto sales without inventory. She said a Zoning Verification Letter was required by the State of North Carolina Department of Motor Vehicles for an auto dealership. She stated that the current Zoning Ordinance only designated auto dealerships with outside lots. The request would allow for auto brokers who only have an office. It would also designate auto sales with indoor inventory as a use. She indicated that Section 13.2 Definitions and 5.1.4 Table of Uses would be changed to reflect the mentioned uses.

She stated that the Text Amendment would also clarify where the uses would be allowed. She said that Automobile Sales (Broker Only) would be allowed in NMX (Neighborhood Mixed-Use), CMX (Corridor Mixed-Use), HB (Highway Business) and GI (General Industrial). Auto Dealer (Indoor Stock Only) would be allowed as a permitted use in CMX (Corridor Mixed-Use) and HB (Highway Business). She further stated that the Auto Dealer designation was allowed with a Conditional Use Permit in HB (Highway Business).

Mr. Stamm asked how the determination was made for the allowable locations of Auto Dealer (Indoor Stock Only). Mrs. Heck stated that the Staff normally reviewed what other towns allowed in their Zoning Ordinances. She said that most dealerships wanted to be able to get their Zoning Verification Letter so that they would be allowed to sell autos. She said that Auto Uses, which currently were considered Type Three Retail, needed a designation.

Mr. Wade Nunez stated that he currently had an auto dealership in Cornelius. He said that he wanted to relocate to Lakeside Business Park. He explained that he sold the higher quality luxury cars like Ferrari and Lamborghini. He stated that his entire inventory was indoors, and he requested that the Auto Dealer (Indoor Stock Only) be an allowed use in the GI (General Industrial) Zoning District. Mrs. Heck replied that the Staff had agreed that GI (General Industrial) was more appropriate for Broker Only Auto Sales. She conceded that the Staff was not totally in consensus of that determination and asked the Board to make a recommendation as to the permitted use in GI (General Industrial).

Mr. Martin asked if a race shop was allowed in the GI (General Industrial) Zoning District. Mr. Heck stated that it was allowed. Mr. Martin made a recommendation that Auto Dealer (Indoor Stock Only) should be an allowed use in GI (General Industrial)

**ACTION: Mr. Martin made a motion to approve the request including allowing Auto Dealer (Indoor Stock Only) in GI (General Industrial) and to adopt the Statement of Reasonableness and Compliance. Mr. Stamm seconded the motion. The motion passed unanimously.**

9. Consideration of a **TEXT AMENDMENT** request from Gryphon Development Group, LLC. The Text Amendment is for **Article 4.5 Office Overlay**, of the Town of Mooresville Zoning Ordinance and to the adopted Zoning Map.

Mrs. Edwards indicated to the Board that the Text Amendment was not Staff generated. She said that the request was being made by The Gryphon Development Group, LLC, along with Richard J. Lutz, Randall A. Roth, James Wachob, Carolyn Davis, Richard W. Usher, Jennifer Meadows, Lillian Lukic, Alissandro Castillo, Paul Kelly, J. Morris Wilson, Paul Davis, Linda Cherry, T. Michael Godley, Eric C. Lodge, Don Mills and Richard J. Skaff. She explained that the applicants wanted the Office and Institutional Overlay removed from the Town of Mooresville Zoning Ordinance and Zoning Map. She indicated that the Overlay was along Williamson Road.



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She stated that the Office and Institutional Overlay was adopted around the time that Lake Norman Regional Medical Center was being relocated to Fairview Road. It was deemed that there would be development along Williamson Road which would be medical office spaces. She said that most of the medical offices were, however, located closer to the hospital.

She explained that when the Town of Mooresville Zoning Ordinance was adopted in March 2008, the Staff had recommended that the area be zoned NMX (Neighborhood Mixed-Use). She stated that in the NMX (Neighborhood Mixed-Use) Zoning District restaurants of up to five thousand (5000) square feet were allowed without a Conditional Use Permit. The Office and Institutional Overlay required a Conditional Use Permit for any restaurant.

Mrs. Edwards noted that the residents of Harbor Cove Subdivision, which bordered one of the larger properties in the Office and Institutional Overlay District, had been present when the request was initially made to the Mooresville Board of Commissioners. The residents had spoken expressing concern about the possibility of a restaurant locating in the building. The Mooresville Town Board adopted the Office and Institutional Overlay, which required a Conditional Use Permit for any food service uses.

She explained that request was to remove the Overlay to allow the properties to develop under the NMX (Neighborhood Mixed-Use) Zoning District, which was not as restrictive. She introduced Mr. Parker Black, Senior Advisor of Newport Properties, representing The Gryphon Development Group, LLC.

Mr. Black began his presentation stating he had a business in the Williamson Road corridor. He also noted that he had served on the Mooresville/South Iredell Chamber of Commerce. He said that he had travelled to Benton, Arkansas to get a perspective on the anticipated growth from the relocation of Lowe's Corporate Offices to Mooresville.

He indicated that the twenty-eight (28) properties affected by the Office and Institutional Overlay were valued at approximately fourteen million (\$14,000,000) dollars. He stated the Overlay had not fostered the type of growth that was occurring at the Gateway complex at Exit 33. He said that it had caused a negative economic impact to the businesses located along Williamson Road.

He asked that the Office and Institutional Overlay be removed and allow the base zoning of NMX (Neighborhood Mixed-Use) to govern the uses. He indicated that the areas affected were along Williamson Road from the North Carolina 1109 bridge to just north of Brawley School Road. He stated that the property which caused the contentious atmosphere concerning the removal of the Overlay was the Harbor Square building, which was adjacent to Harbor Cove Subdivision.

He stated that the NMX (Neighborhood Mixed-Use) base zoning encouraged the growth of small businesses, retail and residential structures. He indicated that the Harbor Square building was approximately thirty thousand (30,000) square feet with a hair salon and dentist office at the location. He stated that the building had had space available for approximately three (3) years. He explained that the restrictiveness of the Office and Institutional Overlay had adversely affected the business. He said that the Conditional Use Permit process took a very long time, and the property owners were having difficulties finding tenants for the spaces available due to the Overlay.

He said that the neighbors had been concerned about restaurants locating at the site due to rodents, dumpsters and smells. He stated that the Iredell County Health Department governed the disposal of waste byproducts, vermin control and dumpsters. He stated that the dumpster on the site was screened with a concrete wall and



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metal doors. He stated that the developer of the property had attempted to contact the neighboring residents to address their concerns about potential uses. He said that the attempts had been futile.

Citing the walk ability in the area, Mr. Stamm asked Mrs. Edwards what the plans were for sidewalks in the area. Mrs. Edwards stated that she did not know what plans the North Carolina Department of Transportation had concerning sidewalks for the Williamson Road corridor. Mr. Black stated that as properties were developed along the corridor sidewalks would be installed. He mentioned that the residents of Harbor Cove used the sidewalk in front of Harbor Square to walk from one subdivision entrance to the other entrance when walking their dogs.

Mr. Brad Henderson, a resident of Harbor Cove, stated that he was asked to speak on behalf of the Harbor Cove Homeowners Association Board of Directors. He said that he wanted to give an historical perspective concerning the matter. He explained that the first request by Gryphon Development Group, LLC was made two years ago. At that time the applicant requested a Variance to the Office and Institutional Overlay.

He indicated that the Harbor Square building was surrounded on three sides by Single Family residences. He said that the residents raised concerns about traffic, noises and smells from potential tenants, especially from late night activities related to restaurants and bars. He explained that the developer of Harbor Square knew that the Office and Institutional Overlay was in place when construction of the building began. He also said that the residents of Harbor Cove Subdivision also purchased their properties with the understanding that the building would house offices only.

He said that the subdivision was also in close proximity to Vinnie's Sardine Grill and Raw Bar. He stated that many of the residents complained about the smells that emanated from the dumpsters, especially in the summer, and other residents who lived further away could hear when the dumpsters were emptied in the mornings and evenings. He stated that the traffic noises were also a problem for many of the residents. He said that the neighbors did not want another such establishment near their neighborhood.

He disputed that the Homeowner's Association had not communicated with Gryphon Development Group, LLC. He said that he had met with a representative of the group to discuss the possibility of a survey of the neighborhood concerning a food services establishment locating at the site. He said that eighty-six (86) percent of the residents did not want any type of restaurant at that location. He said that he believed there needed to be a compelling need for a zoning change, and he did not believe that the need existed.

Mr. Ernie Eller spoke to the Board concerning private property which bordered Harbor Square Development. He presented pictures from adjoining properties and spoke about concerns pertaining to the close proximity. He said that the employees of the hair salon would take their breaks in the parking lot in order to smoke. He said that they would also play their car radios very loudly. He said that if a restaurant was allowed, there was potential for the children of Harbor Cove Subdivision to be exposed to people drinking. He said that the residents did not want this problem. He complained that a street light in the parking lot needed a shield as the light from it shown into his bedroom. He said that no shield had been installed.

He said that the screening trees were inadequate for buffering the properties. He also noted that a berm was not installed to help screen the view.

Mr. Ken Leibee stated that the potential for increased traffic was a concern for many of the residents. He said that traffic was already heavy on the Williamson Road corridor. He reiterated that the possibility of alcohol sales was a grave concern for the residents, especially those with small children. He also pointed out a concern for the close proximity to the neighboring homes.



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Mr. Trevor Darling said that when he purchased his property, he was assured that there would only be offices in the Harbor Square Development.

Ms. Melanie Spainhour stated that her property adjoined Harbor Square Development. She complained that the applicant had asked business owners on the west side of Williamson Road to also request that the Office and Institutional Overlay be removed. She said that the residents had agreed that they did not want the request to be approved. She also stated that the late night traffic on Williamson Road was very loud and heavy. She said that she preferred that the tenants of the building should have only workday hours.

Ms. Irene Chadwick spoke to the Board. She also had concerns about the traffic on Williamson Road. She stated that she had difficulties getting in and out of her subdivision. She said that she did not believe there were adequate lanes on Williamson Road. She indicated that there did not appear to be adequate parking at the Harbor Square Development, and she was concerned that visitors to the building would begin using the subdivision streets for parking. She also noted that she could not hear the dumpsters being emptied at Vinnie's Sardine Grill and Raw Bar, but she had seen a lot of broken glass around the dumpsters at the site.

Mr. Tony Walters said that he had attended all of the meetings concerning the request. He said that the Office and Institutional Overlay was adopted in order to protect the residential property owners. He stated that the subdivision was established before Harbor Square Development was constructed. He explained that the Homeowner's Association had planted most of the screening trees.

Ms. Kathleen Cody said that she felt that the Office and Institutional Overlay should remain for all of the reasons that her neighbors had discussed.

Mr. Eric Lodge stated that his property was across the road from the Harbor Square building. He said that he felt the business property owners within the Office and Institutional Overlay were being penalized. He said that uses that required a Conditional Use Permit would be allowed by right in the Neighborhood Mixed-Use Zoning District. He asked that the request be approved.

Mr. Black asked to address some of the concerns that were mentioned by the subdivision's residents. He said that the parking in the back was for employees and that visitors to the building would enter from the front of the property. He said there was no driveway at the rear of the parking lot. He also stated that the trees were very young and that a berm did exist to help screen the property. He indicated that there was a small pond on the property which had a small wall with trees next to it. He stated that the dumpster for the property was located approximately two hundred fifty (250) feet from the property line and was fully enclosed. He pointed out that the subdivision storage facility was also visible to the residents. He noted that commercial trailers were stored in the facility along with boats, which could be seen from adjoining property owners.

He acknowledged that traffic was heavy on Williamson Road, but he felt that the new interstate exit at Brawley School Road would help to mitigate the problem. He also said that the parking was managed by the Town of Mooresville Zoning Ordinance. The number of parking spaces at a location was in portion to the building's proposed use. He stated that if a use required most of the parking, then portions of the building would possibly remain vacant.

He pointed out that bars were not allowed in the Neighborhood Mixed-Use (NMX) Zoning District. He cited that Vinnie's Sardine Grill and Raw Bar was grandfathered when the Office and Institutional Overlay was



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adopted. He said that complaints concerning the restaurant were valid, but that there were agencies which governed and addressed these concerns.

Mr. Henderson asked to speak again. He reiterated that it was unusual to speculate that the building had vacancies because of the Office and Institutional Overlay. He stated that he believed that like other vacant properties around the area, the slow economy was the greatest contributing factor. He said that the homeowners' concerns were in regard to the eastern side of Williamson Road. While citing the suggestion that there was a lack of cooperation, he mentioned that the Homeowner's Association had purchased many of the Leyland Cypress trees that screened the property. He concluded by restating that the residents of Harbor Cove Subdivision did not want any food service uses on the site.

**ACTION: Mr. Robertson made a motion to deny the request because there was a provision in the Office and Institutional Overlay which allowed specific uses with a Conditional Use Permit. Mr. Martin seconded the motion. The motion to deny the request passed unanimously.**

10. Consideration of other business the Board may consider.

There was no other business.

**ACTION: Mr. Martin made a motion to adjourn the meeting. Mr. Brawley seconded the motion. Mr. Nail adjourned the meeting at 8:48 p.m.**