



Planning Board Minutes October 14, 2010

Members Present:

David Nail, Chairman

John Robertson, Vice Chair

Allen Brawley

Danny Martin

Steve McGlothlin

William Ogburn

David Steen

Joe Thompson

Also Present:

Tim Brown, Planning Director

Craig Culberson, Senior Planner

Jim King, Senior Planner

Angela Thompson, Administrative Support Specialist

Mr. Nail opened the meeting at 6:03 p.m. Mr. Ogburn offered a prayer.

1. Approval of the minutes of the September 9, 2010 Planning Board meeting as submitted.

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

2. Consideration of a **CONDITIONAL REZONING** request from Carolina Income Management Group, LLC. The property located at Lineberger Dr. and Muskedine Loop 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, 4637-74-0503, 4637-64-9474, 4637-64-8736, 4637-64-8071, 4637-64-5442, 4637-64-6676, 4637-64-6802, 4637-65-6037 and 4637-65-6345. The request is to rezone the properties from Single Family Residential-2 (R2) to Corridor Mixed Use with Conditions (CMX-C).

Mr. Culberson indicated to the Planning Board members that the applicant requested, in writing, that the Conditional Rezoning request be deferred until the November 10, 2010 Planning Board meeting.

ACTION: Mr. Steen made a motion to defer the applicant's request until the November 10, 2010 Planning Board meeting. Mr. Martin seconded the motion. The motion carried.

3. Consideration of a **REZONING** request from Melvin & Eva Shumake, 3202 Charlotte Hwy., Mooresville, NC 28117; John & Wanda Redden, P.O. Box 126, Mooresville, NC 28115; Kay R. Cope, 3645 Amity Hill Rd., Cleveland, NC 27013; John W. Shuler, 3189 Charlotte Hwy., Mooresville, NC 28117; Harold Robertson Et. Al., 1726 Knolls Rd., Newton, NC 28658; Ronald C. Caldwell, 122 E. Waterlynn Rd., Mooresville, NC 28117; Glen Shuler, 270 Timberland Loop, Mooresville, NC 28115; Robert & Patricia Hasket, 107 W. Waterlynn Rd., Mooresville, NC 28117; Karen Hager, 106 Cobbler Cove Rd., Mooresville, NC 28117; Jay W.



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Hager, 129 W. Waterlynn Rd., Mooresville, NC 28117; Timothy & Mary Lay, 133 W. Waterlynn Rd., Mooresville, NC 28117; Mary E. R. Gilstrap, 124 W. Waterlynn Rd., Mooresville, NC 28117; Johnnie Robertson, 3158 Charlotte Hwy., Mooresville, NC 28117; O'Anna Minton, 3142 Charlotte Hwy., Mooresville, NC 28117; Elizabeth Lowder & George Brawley, 554 W. Park Ave., Mooresville, NC 28115 and Floyd & Phyllis Witherspoon, 3123 Charlotte Hwy., Mooresville, NC 28117. The property located at US Hwy. 21 South and Waterlynn Rd., is further referenced as Iredell County Map PIN's 4646-93-1676, 4646-93-0586, 4646-93-0484, 4646-93-4413, 4646-93-6796, 4646-93-7929, 4646-93-7951, 4646-93-8794, 4646-93-9657, 4646-94-4265, 4646-94-1265, 4646-83-7743, 4646-94-2631, 4646-94-0693, 4646-84-6395, 4646-94-3871, 4646-94-4668, 4646-94-6417, 4646-94-7518, 4646-94-5768, 4646-94-7831, 4646-94-8952, 4646-94-9118 and 4656-04-4916. The request is to rezone the properties from NMX (Neighborhood Mixed-Use) to R2 (Single Family Residential-2).

Mr. Culberson presented the request in conjunction with a Power Point presentation. He stated that the subject properties were located at and in the immediate vicinity of the intersection of US Highway 21 (Charlotte Highway) and Waterlynn Road. He said that there were no development plans anticipated for the subject parcels. He explained that the applicants were requesting to be rezoned from NMX (Neighborhood Mixed-Use) to R-2 (Single Family Residential-2) in an effort to reduce their tax burden. He said that the parcels totaled approximately 50.43 acres. He indicated that all of the properties currently supported the established residential uses or were undeveloped land.

He said that the subject properties were initially released from Iredell County to the Town of Mooresville's zoning jurisdiction (ETJ) in 1998, and that at that time Mooresville's Town Board of Commissioners initially established zoning for these properties as R20 (Low Density Residential). He explained that the properties were rezoned from a residential zoning district (R20-Low Density Residential) to a commercial zoning district (NC-Neighborhood Center) in 2000 upon the adoption of the Mount Mourne Small Area Plan. There was also a subsequent adoption of the Mount Mourne Code (Article 16) into the Town of Mooresville Zoning Ordinance. He stated that on March 3, 2008, upon the adoption of the current Zoning Ordinance, the NC (Neighborhood Center) district transitioned to NMX (Neighborhood Mixed-Use). He said that the property owners did not request that their property be rezoned to a commercial zoning district at that time.

He said that the rezoning did not support any new development, but that it was expected that the properties would remain unchanged for the immediate future. He explained that the R-2 (Single Family Residential-2) Zoning District was predominately a low density single family district that allowed a density of two (2) units per acre.

He indicated that the Town of Mooresville Comprehensive Land Use Plan recommended that most of the subject properties, all of the parcels with Charlotte Highway frontage and most of the parcels along Waterlynn Road had the CMX (Corridor Mixed Use) land use category. He further explained that the Corridor Mixed-Use Zoning District planning areas were commercial in character, with small shopping



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centers, automobile services, offices, retail stores, restaurants and commercial uses that may not be appropriate for an activity center due to levels of noise and requirements for outdoor space. He stated that the corridors created a transition buffer between land uses. He said that the 2008 Comprehensive Land Use Plan recommended the NR (Neighborhood Residential) land use category for the remaining subject parcels on West Waterlynn Road, which would be developed as a series of interconnected neighborhoods with concentrated areas of more dense urban development or urban villages located along the major corridors. He indicated that this would support the potential for local transit linking villages, downtown and employment centers.

He explained that although the request was not in keeping with the 2008 Comprehensive Land Use Plan, it would not prevent the future implementation of the Plan. He said that the request did not entail any development and that any future development would likely require a rezoning that would bring the area into compliance with the 2008 Comprehensive Land Use Plan.

He stated that the 2008 Comprehensive Transportation Plan could not impose improvements until such a time as development took place. He said that the request would not generate any additional traffic since there was not any new development proposed.

He completed his presentation saying the approval of the request would serve to reduce the tax burden on the applicants. He explained that the request was in keeping with Town Strategy Five which indicated, "Utilize growth management tools to guide Mooresville's growth".

Mr. McGlothlin asked Mr. Culberson if the request was to ease the property owners' tax burden. He also asked if the rezoning request would hamper future rezoning requests. Mr. Culberson replied that the current or future owners could, in the future, develop the property according to the 2008 Comprehensive Land Use Plan. He said that any future request would have to be in compliance with the Plan.

Mr. John Shuler, an applicant for the request, represented the twenty-four (24) property owners and spoke to the Planning Board members. He said that he lived at 3189 Charlotte Highway. He said that the total acreage involved in the request was approximately fifty (50) acres. He said that most of the properties bordered US Highway 21 (Charlotte Highway) and Waterlynn Road.

He reiterated Mr. Culberson's statements that there were no development plans anticipated for the properties. He said the properties supported residential uses and some of the properties were undeveloped. He explained that the property owners did not request to have their properties rezoned in 2000.

He said the process of the owners to request the rezoning began many months ago when they began attending the Public Workshops for the US Highway 21 Small Area Plan. He said they had discussed the increase in their taxes due to the current zoning. He explained that they wanted to find a way to



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decrease the burden of the taxes. He said that the neighbors sought the advice of the Planning Department Staff.

He read from the Rezoning Application the following questions with the applicants' responses:

1. "What changed or changing conditions justifies the passage of the amendment? (Discuss how circumstances have so changed since the property was last zoned)." He said that the properties were rezoned to commercial zoning with the adoption of the Mount Mourne Small Area Plan which was approved by the Town of Mooresville Board of Commissioners in 2000. He said that since that time the economic climate had deteriorated substantially and that development in the area had virtually ceased. He explained that many of the properties had been for sale market but had since been taken off of the market. He said the properties that were still for sale had drawn very little interest.

2. "Explain how the map amendment would be consistent with the Town's Comprehensive Land Use Plan, Comprehensive Transportation Plan and all applicable Small Area Plans." He explained that over the last few decades many of the properties had been maintained as Single Family residences. He said that the only change in the area had been the increase of traffic. He stated that his family had owned property there since 1950. He said that he remembered when Waterlynn Road was a dirt road and was called Airport Road. He said that US Highway 21 did not extend that far south when his family moved there.

He said that as the economic conditions improve in the area the properties could be rezoned to a commercial zoning classification on an individual basis as land development returned.

3. "Explain briefly the expected effect on the neighborhood if the proposed zoning map amendment is approved?" He said that there would be no change as vacant property would remain vacant and residential properties would remain occupied.

4. "Explain any other circumstances which tend to justify the amendment in the public interest?" He reiterated that the property owners did not request the 2000 rezoning of the area. He said that the current rezoning request would relieve the tax burdens of the owners who are on a fixed income. He stated that many of the property owners received income from Social Security and that one couple had been unemployed for over a year.

He said that because the properties were located in the county there would be no lost revenues for the Town of Mooresville.

He indicated a spreadsheet of the valuations of the properties in 2005, 2007 and 2010. He said that the spreadsheet showed the values of the properties. He explained that the 2005 total value was two point five million (2.5) dollars, and in 2007 the total value was eleven point nine (11.9) million dollars. He said that after many of the property owners made telephone calls to the Iredell County Tax Office, the



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value of the properties in 2010 dropped slightly to ten point five (10.5) million dollars. He said that the average taxes paid per property owner were seven hundred (\$700) dollars in 2005, three thousand three hundred (\$3300) dollars in 2007 and two thousand nine hundred (\$2900) dollars in 2010. He said that to pay the taxes in the depressed economy required sacrifices. He said that the tax increase was unjustified. He asked that the Planning Board members recommend the approval of the request.

ACTION: Mr. Ogburn made a motion to adopt the Statement of Reasonableness and Compliance and to recommend approval of the Rezoning request from NMX (Neighborhood Mixed-Use) to R-2 (Single-Family Residential-2). Mr. Brawley seconded the motion. The motion passed unanimously.

4. Consideration of a **TEXT AMENDMENT** request from Nathan Sims. The Text Amendment is for Article 5.4.2(2)(c), (f), 5.4.2 (5)(b), (d), [(i) new], 5.4.2(7)(a), delete Table 5.4.2(7), (c) and 13.2, of the Town of Mooresville Zoning Ordinance. The property located at 421 Richards Lane, is further referenced as Iredell County Map Tax PIN 4666-37-5214. The request is to establish fairness in terms of accessory use structure areas among lot sizes.

Mr. Culberson explained that the request was not initiated by the Planning Staff. He said that Mr. Dick Brolin would be presenting the Text Amendment request on behalf of Mr. Nathan Sims. He further stated that the Planning Staff would make a presentation at the completion of Mr. Brolin's Power Point Presentation.

Mr. Brolin of Piedmont Design Associates began by telling the Board members that his client lived at 421 Richards Lane off of Magnolia Avenue. He said that his firm had had requests from people wanting to buy lots that were between one half (1/2) acre to three (3) acres in Mooresville for a more country living setting. He said that each client had a variety of demands for the sites. He said that most of the clients wanted accessory buildings along with larger houses.

He explained that in talking with the different clients most were not urban dwellers. He said that he believed that anyone who owned one half (1/2) acre or more would have numerous outdoor activities. He indicated that some of the individuals were of families of more than three people and each had a car. He said that they typically had boats, RV's, jet skis, collectible vehicles, workshops and a place for storage. He also indicated that many individuals wanted to install pools with cabanas in the rear of the property with a pool house for storage.

He said that he has had many clients who decided to locate their families in areas outside of the Town of Mooresville zoning jurisdiction. He said that Iredell County had more lenient restrictions where individuals could have what they desired.

He said that as the planner of Piedmont Design Associates, he would work with the client to create a Site Plan following the rules in the Town of Mooresville Zoning Ordinance. He said that he realized



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that Mr. Sims could not do what he wanted to do on his property, because it was not in compliance with the Zoning Ordinance. He explained that Mr. Sims had purchased land in Mooresville a long time ago and had been developing the two point six (2.6) acre site. He said that Mr. Sims had retired, and he wanted to be able to develop his land more. Mr. Brolin explained that Mr. Sims had cars, an RV and collectibles and that he needed a shop for storage.

Mr. Brolin said that he explained to Mr. Sims that he would not be able to build the building that he wanted, because it was not allowed according to the Zoning Ordinance. He further explained that there were many intricacies concerning how much accessory structure square footage could be located on a site. He said that the sum of roof Mr. Sims had exceeded the limits. He said that Mr. Sims asked if he could get a Variance. Mr. Brolin explained that a Variance would not benefit him as he was not suffering a hardship. He explained that all he could do was to advance the proposal for a Text Amendment change that would allow more flexibility.

He explained that he had an analysis spreadsheet that showed what accessory structure criteria was allowed in the current Zoning Ordinance. He stated that the current code indicated that accessory buildings were to be a subordinate use in mass and density that kept the structure subordinate to the primary structure.

He said that the criterion was very complex in that the square footage of accessory structures was based on the lot size. He directed the Board members attention to a graphic that illustrated lots of three thousand (3000 s.f.), eight thousand (8000 s.f.) square feet, one half (1/2) acre and up to one (1) acre in size. He said that one set of rules governed the accessory structure size. He said that there was a disparity in the amount of the site being used for said structures.

He said the existing code allowed for a two (2) car garage on the back of a three thousand (3000 s.f.) square foot lot. He said that the structure would occupy twelve (12%) percent of the lot. He said that the utility for that lot size was extremely high. He further indicated that a one quarter (1/4%) acre lot would allow up to eight (8%) percent of the lot for an accessory building. He explained that a one half (1/2) acre lot would allow an individual to use five (5%) percent of the acreage for an accessory structure. He said that a one acre site would be allowed three and one half (3 1/2%) percent for an accessory structure. He further illustrated that on a two (2) acre site the accessory structure could only occupy approximately two (2%) percent of the site. He indicated that there were several large lots in Mooresville.

Using the example of a sixteen hundred (1600 s.f.) square foot home with a two-car garage, he said only twelve hundred (1200 s.f.) square feet of the ground floor could be considered for an accessory structure if the garage comprised of four hundred (400 s.f.) square feet. He said that if the same residence was a two story home the gross habitable area could comprise of up to three thousand (3000 s.f.) square feet. He explained that the Zoning Ordinance stated that an individual must have the lesser of a certain amount of square footage for accessory structures or fifty (50%) percent of the habitable



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ground floor area. He said that the total habitable area was not taken into consideration for the calculation.

He explained that the Zoning Ordinance required that the accessory structure be subordinate to the primary structure to assure that the accessory structure did not overwhelm the site. He said that an individual who owned a larger lot would probably have a garden. He said that the individual would probably want to store equipment on the property and would need an accessory structure to do so. He said that the size of the lot would restrict the amount of storage for such a need.

Mr. Brolin said that the square footage allowance for a one half (1/2) acre site was five (5%) percent. He said that this was a good balance and suggested that the percentage was a fair amount for all lot sizes. He said that as people purchased larger lots they tended to build larger house sizes. He explained that most homes being built presently were two storied with bonus rooms.

He proposed that all lots of one quarter (1/4) of an acre in size or larger could locate an accessory structure that was five (5%) percent of the total habitable square footage of the principal structure and could maintain a balanced scale on the site. He said that the proportion, scale and balance should be considered. He said that the percentage of allowed accessory structure square footage should not include well houses used for irrigation.

He said that if an individual wanted to build an accessory structure that was larger than the primary structure the request could require a Conditional Use Permit. He said that such requests could also be required to submit a Concept Plan with the requirement that the accessory structure should be architecturally compatible with the primary structure. He indicated that he agreed that such structures should be within the side and rear yard setbacks.

Using a Site Plan, Mr. Brolin indicated that Mr. Sims house was five thousand (5000 s.f.) square feet in gross size. He said that Mr. Sims had a garden with a shed for tools and a twenty-four hundred (2400 s.f.) square foot building. He said the total square footage of both of the outbuildings was thirty-eight hundred (3800 s.f.) square feet. He said that the mass and scale for the site was nicely scaled. He said that he liked the simplicity of the five (5%) formula.

He explained that the Text Amendment request would be fair and allow individuals the ability to have larger accessory structures. He said that he was willing to work with the Planning Staff to develop new guidelines that would be workable. He stated that he understood that there had to be limits on sizes so that the structures could not exceed the primary structure.

Mr. Ogburn asked if the square footage of the house was five thousand (5000 s.f.) square feet. Mr. Brolin stated that it was. Mr. Ogburn further asked about the square footage of the outbuildings. Mr. Brolin said that the total was approximately thirty-four hundred (3400 s.f.) square feet. Mr. Ogburn said that if an individual owned three (3) acres and had a one thousand (1000 s.f.) square foot home



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then an accessory structure could be significantly larger than the primary structure. Mr. Brolin suggested that the proposal would state that the square footage of the accessory structure could not exceed the primary structure. He said that Mr. Sims wanted to locate the new building at the rear of his property.

Mr. Martin said that the Site Plan for Mr. Sims was well done, but he said that there had to be more specific language to guide the proportions of the building on the site. Mr. Brolin said that much of the written text in the proposal had not been addressed during his presentation. He said that text could be added that restricted the distance from and that required that the accessory structure must be to the rear of the primary structure.

Mr. McGlothlin also said that the Site Plan was well done and asked if there was not an alternative for Mr. Sims to be able to have the additional accessory structure. Mr. Brolin said there was not. He reiterated that Mr. Sims was not the only individual he had talked with that had the same problem.

Mr. Martin said that there were developments that restricted homeowners from having accessory structures. Mr. Brolin replied that this was typically governed by the neighborhood's Homeowners Association. He said that this was typical for smaller subdivisions.

He said that he understood the trepidations of the Board members concerning large accessory buildings, but he also understood that individuals who owned larger lots typically needed larger scale buildings for storage purposes. He said that the current Zoning Ordinance was too discriminating for structures on these lots.

Mr. Robertson asked Mr. Culberson how the Town of Mooresville Zoning Ordinance compared to those of other municipalities. Mr. Culberson said that he couldn't answer the question at that time. He replied that it could be researched as other municipalities had their documents on line on the internet. Mr. Robertson said that he thought there should be a way to work with individuals on a case by case basis.

Mr. Nail asked Mr. Culberson to make his presentation before there were any more questions. Mr. Culberson began by saying that the Planning Staff had had several discussions with Mr. Brolin concerning the request. He said that the Planning Staff did not agree with the Text Amendment request.

He said that the principal determination of compliance of an accessory use was a visual one. He indicated that the Zoning Ordinance currently stated that an accessory use shall "be customarily accessory and clearly incidental and subordinate to the principal use or structure". He explained that if an accessory use is visually larger than the principal use, there is no perception of the accessory use being subordinate and incidental to the principal use. He said that if an individual were to ride down the street he would get a perception of the relationship between a principal use and an accessory use.



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He quoted the Zoning Ordinance saying, “An accessory use shall be customarily an accessory and clearly incidental and subordinate to the principal use.” He said that if the accessory use was visually larger than the principal use, the perception would be that the accessory use was not subordinate and incidental.

He explained that the General Standards in the Zoning Ordinance for accessory uses stated that an accessory use must be subordinate in area, extent, and purpose to the principal use or structure. He stated that the proposed amendment would allow accessory structures that could be significantly larger in size and area to the principal structure on a lot.

He said that the proposed amendment benefited lots of one (1) acre in size or larger, but was detrimental to lots less than one (1) acre in size. He indicated that the change would require smaller accessory structures than are allowed under the current Zoning Ordinance on lots of less than one (1) acre in size. He said that according to the chart that Mr. Brolin presented, a one quarter (1/4) acre lot under the current Zoning Ordinance would allow a shed of nine hundred forty (940 s.f.) square feet, but with the proposed amendment would decrease the allowable square footage to five hundred (500 s.f.) square feet. He explained that the allowable size for a one half (1/2) acre lot presently was twelve hundred (1200 s.f.) while the proposal would decrease the size allowed to eleven hundred twenty-five (1125 s.f.) square feet.

Mr. Culberson said that Mrs. Irene Mann, a Planning Staff member, generated a map showing the sizes of lots in the town limits. He said that currently there were almost ten thousand (10,000) residential lots under an acre in size and around two thousand (2000) lots of an acre or more in size. He said that the vast majority of lots would be affected in a detrimental manner by the proposal as opposed to the larger lots that benefited from it.

He explained that by allowing accessory structures significantly larger than the principal structure would be inconsistent with the basic tenets of residential zoning districts in which the principal structure was the dominant structure on the property.

He said that the Planning Staff had reviewed Mr. Brolin’s request and did not have any problem with Mr. Sims’ Site Plan. He explained that the text in the Zoning Ordinance must address each situation. He said that there needed to be fairness for every situation.

He said that an attached garage or the expansion of the principal structure did not qualify as an accessory structure. He said that Mr. Brolin had offered a concession that stated the accessory structure could not exceed the size of the principal structure. He said that the proposal indicated a one hundred (100’) foot separation between the principal and accessory structures. He stated that there was no requirement concerning the separation and that the accessory structure could be placed closer to the residence causing a disassociation with an accessory use.



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He said that Mr. Sims did have the option to request a Variance from the Board of Adjustment. He said that the Board of Adjustment members would have to find in the affirmative the four (4) Findings of Fact to grant a Variance. He said that there had to be a hardship with the land and in the current request there was no hardship. He said that the applicant had a hardship in being able to build the structure but no hardship with the land.

He said that Piedmont Design Associates did first-class work and the Site Plan was well done. He said that the Planning Staff, however, was bound by the guidelines in the Zoning Ordinance; and therefore, could not approve Mr. Sims request.

Mr. Culberson also responded to Mr. Brolin's proposal that a larger structure could be constructed through the approval of the Conditional Use Process. He said that the Planning Staff was currently working on the use table in Chapter Five (5) of the Zoning Ordinance. He said that the objective was to greatly reduce or eliminate the need for Conditional Use Permits, because the Public Hearing was conducted as a quasi-judicial process. He said that the Planning Staff would probably not be inclined to create another Conditional Use option. He said that there would possibly be a joint board workshop in January to discuss the changes in the use table.

Mr. McGlothlin asked how frequently the issue of larger accessory structure requests had occurred. Mr. Culberson replied that occasionally there had been requests in the past. He said that Mr. Brolin probably received more requests of that nature than the Planning Staff had. Mr. McGlothlin said that there was quite a gap in the difference of the request. He continued saying that he was not comfortable with the global approach, but that there needed to be an opportunity for larger lots to have larger accessory structures. He used the example of an individual with six or seven acres who might want to have a barn in the rear area of the property to stable horses. He said that it could be unobtrusive in that area. He said that there should be a method for individuals to make a request for the larger accessory structures. He said he would like the opportunity for the requests to be considered in on a one by one basis.

Mr. Brolin explained that his client was not in a hurry to start the project and was receptive to additional language in the text. He stated that the current text in the Zoning Ordinance was arbitrary and unfair. He said that the community needed more diversity, and he was willing to work with the Planning Staff to facilitate fairer requirements. He said that several large sites in Mooresville had accessory structures that were larger than his request. He said that the sites were very upscale in nature.

Mr. Steen said that larger accessory structures of around sixty-five hundred (6500 s.f.) square feet could potentially make the use appear to be commercial or agricultural. Mr. Culberson said that Mr. Brolin had mentioned limiting the size of the accessory structure to five (5%) percent of the lot size but that it could not exceed the square footage of the primary structure. He said that if someone were to



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build a sixty-five hundred (6500 s.f.) square foot shed they would likely have a very large house. He said that in that instance the principal to accessory relationship would be intact.

He explained that the Planning Staff would be willing to have continued dialog with Mr. Brolin on behalf of Mr. Sims. Mr. Martin asked if individuals with less than an acre would be penalized because of the proposed Text Amendment. Mr. Culberson replied that there needed to be a variation of the Text Amendment, citing that there were approximately ten thousand (10,000) lots within the town limits that were less than one (1) acre in size. He said that these property owners would lose accessory structure square footage with the proposed Text Amendment. He indicated that these lots were typically located in subdivisions. He said that the one (1) acre threshold might be where to start in modifying the Zoning Ordinance and the current Text Amendment request.

Mr. Robertson asked if Mr. Sims lot was three (3) acres. Mr. Brolin stated that the lot was two point six (2.6) acres. Mr. Robertson asked if the property was zoned R-2 (Single-Family Residential-2). Mr. Culberson indicated that the property was R-3 (Single-Family Residential-3). He said that the property could potentially be divided into three (3) lots with a street provided. Mr. Robertson said that the property currently had a very large house on it. He said that if the large accessory building was added and the lot was subdivided, there was the possibility that two more houses could be added to the properties. Mr. Culberson said that if the proposed large shed were constructed and the lot was divided, a nonconformity would be created. He explained that there were provisions that would not allow the creation of a nonconforming lot. He said that this scenario needed to be considered.

Mr. Nail said that the request should be referred to the Planning Staff for further research.

ACTION: Mr. Robertson made a motion to have request sent back to the Planning Staff for further study concerning the Text Amendment request. Mr. Ogburn seconded the motion. The motion passed unanimously.

5. Consideration of the US 21 Small Area Plan. The purpose of the public meeting is to present the draft plan based upon public input received at three previous workshops held on March 10, 2010, June 17, 2010 and September 13, 2010.

Mr. Tim Brown began the Power Point presentation explaining that the US Highway 21 Small Area Plan had been developed by the Planning Staff. He stated that Mr. Jim King had served as the project manager. He commended the Planning Staff for the work that was done.

He explained that it was important to note that the public had been engaged throughout the project with workshops. He stated that it was the goal and mission of the Planning Staff to serve the public.

He emphasized to the Board members that the plan was a policy document. He explained that the plan would not supersede the provisions of the Town of Mooresville Zoning Ordinance. He said that the



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plan was a tool for the public, the Planning Board and the Town of Mooresville Board of Commissioners to guide in making regulatory and land use decisions. He said that transportation recommendations were also utilized in developing the plan. He explained that North Carolina statutes required that the documents must be relied upon when making decisions.

He said that employment centers such as Lowe' Home Improvement Corporate Headquarters and Lake Norman Regional Medical Center were located in the southern portion of the corridor study. He said that there had been tremendous growth along the corridor, especially at Exit 33. He said that it was important that the policy document guide and shape that growth. He explained that the corridor directed traffic north and south through the Mooresville community which made the plan important.

He said that US Highway 21 was an important roadway for the Town of Mooresville that served as a gateway from the Interstate 77 corridor. He explained that as motorists traveled north from I-77, the land uses transitioned from retail/office mixed use to low-density residential with pockets of low density retail and office in the vicinity of the major intersections. He said that given the proximity of the corridor to the Lowe's Home Improvement Corporate Headquarters, the Lake Norman Regional Hospital, the emerging Brawley School Road corridor, and Mooresville's historic downtown, the Mooresville Planning Board had recommended that a small area plan study be conducted to guide future development anticipated along the US Highway 21 corridor.

He explained that the process to develop the US Highway 21 Small Area Plan took approximately ten months. He said that the steps involved to develop the Plan included the inventory, analysis and synthesis of information pertaining to a variety of planning elements and meeting with Town representatives and others. He explained that the process involved the facilitation of a series of public meetings and collective information and input necessary for preparing, finalizing, and adopting the US Highway 21 Small Area Plan. He said that research and public participation were the keys to the success of the planning process and that during the process the Town of Mooresville simultaneously amended the Brawley School Road Small Area Plan to reference the inter-related elements of the plan.

He said that the policy document would become by reference a part of the 2008 Comprehensive Land Use Plan. He indicated that the residents along the corridor expressed strongly that they did not wish to see any big box development. He explained that these types of buildings generally had a gross square footage of approximately forty-five thousand (45,000 s.f.) square feet. He also stated that the Planning Staff did not want to include pharmacies or grocery stores in the recommendation. He said that those uses required a considerable amount of square footage, but the services that were delivered were local or community oriented. He said that this type of use was discouraged. He said that the focus was on uses that have a local impact.

He stated that there were a variety of small uses along the corridor. He said that the Planning Staff strategy with regard to uses considered prohibiting the large box development and uses that tended to



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have an impact on adjoining properties. He said that examples of this were auto sales and restaurants with drive-throughs. He said that the plan recommended that the uses should be discouraged.

He explained that the planning area extended from the intersection of US Highway 21 at Interstate 77 north to the NC Highway 150 interchange. He indicated the area on the map during the Power Point presentation. He explained that the corridor was divided into three planning segments and activity centers. He said that Section A extended from Fairview Road north to Waterlynn Road; Section B extended from the Waterlynn Road/US 21 intersection north to the Wilson Avenue and Brawley School Road intersection and Segment C extended from the Wilson Avenue/Brawley School Road intersection north to the US Highway 21 interchange with NC Highway 150. He said that specific land use recommendations and implementation strategies were proposed for each planning segment.

He explained that the integrated plan was developed that included the following major policy recommendations:

- Future land use along the corridor should continue the quality and scale of the development in the vicinity of the interchange with I-77 that is primarily mixed use retail and office.
- The existing office uses and retail mixed-use development should be supplemented with an integration of single-family detached housing and multi-family residential land uses located in close proximity to US 21.
- Larger scale office and retail development should be clustered around the node at the intersections of US 21 and Brawley School Road/Wilson Avenue.
- Neighborhood-scale development should be clustered around the intersection of US 21 and Waterlynn Road, and generally in the segment of US 21 north of Wilson Avenue.
- Discretion should be given when reviewing development and rezoning requests in order to protect that natural environment and drinking water supply for this region per the applicable watershed restrictions.
- Redevelop existing mini-storage, strip centers, and automotive sales lots. Such uses are more intense and regional in nature and should not be located along the U.S. 21 Corridor.
- New development to be oriented directly to streets and should be multi-story to integrate uses vertically.



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- Development should integrate principles of urban design that allow for pedestrian and bicycle access, and multi-modal connections should be contemplated between proposed development and the multi-use trail proposed along the roadway.

He indicated on the map that the areas in red signified retail uses. He said that each segment of the corridor was terminated at a node. He stated that development would be encouraged at the nodes of each section. He said that the node at Waterlynn had not developed much, but he anticipated it would be in the future.

He said that the study area in the Small Area Plan did not include the frontage properties at the NC Highway 150 node. He said that the area ended prior to the intersection. He stated that there were specific land use strategies and recommendations for each segment.

Mr. Brown explained that in Segment B the residents at the workshops agreed that attached residential uses should not be encouraged. He said that there were numerous multi-family dwellings in the area but that the land use was not supported. He said that there were properties in Segment A that could support the higher density associated with employment centers.

Mr. Brown said that there had been a struggle in regard to land uses in that area of Segment C. He said that there were properties that were zoned HB (Highway Business) in this segment and that the policy recommendation stated that big box uses were not supported in the area. He said that the zoning, however, did support that type of use by right or with conditions. He said that this created conflict between the policy document and the existing underlying zoning. He stated that there was a need to research the conflict and decide how to shape land use in that part of the corridor.

He said that the Brawley School Road Small Area Plan had been amended at the beginning of the year to accommodate the intersection of Brawley School Road and Wilson Ave at the US Highway 21 corridor. He explained that there was some overlap in both of the plans. He explained that the overlap strengthened the node at that location.

He said the Plan also incorporated specific transportation recommendations for the corridor in keeping with the adopted 2008 Comprehensive Transportation Plan. He indicated that the corridor would ultimately support a four lane, landscaped median divided cross section and a multi-use trail along one side of the roadway with access management. He explained that the cross section was generally supported within existing corridor rights-of-way. He indicated that presently the rights-of-way varied from ninety (90') to one hundred fifty (150') feet along the corridor. He stated that the plan had a right-of-way depth of one hundred ten (110') feet. He said that the transportation recommendations should coincide with future development to ensure an efficient, multi-modal transportation system.

He indicated that the North Carolina Department of Transportation driveway permit process would determine the most appropriate locations for new access points, median crossovers, and the need for



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turn lanes. He said that the Town of Mooresville and the North Carolina Department of Transportation would collaborate regularly on the driveway permitting process to ensure that the most appropriate access management standards are considered for the corridor.

He explained to the Board members that the US Highway 21 Small Area Plan was intended for use as a policy document to provide additional guidance to supplement the 2008 Mooresville Comprehensive Land Use Plan when the Town received future requests for development approval within the designated area.

He said that an implementation matrix was prepared to guide the development of this plan following its adoption. He stated that the action items were listed for each section, as well as transportation, and cultural resources, and were quantified by short, mid, and long-term implementation time frames. He also explained that the responsible agency was also identified for each action item.

Mr. Brown said that the Planning Staff recommended that the Town of Mooresville Board of Commissioners should adopt the Plan and related recommendations based on Chapter Two (2), Recommendations and Implementation Strategies of the Town of Mooresville Zoning Ordinance. He said that the request was in keeping with the recommendations of the Town of Mooresville Strategic Plan Planning Strategy 3, "Develop and document formal planning process procedures and improve related informational documents".

Mr. Brown said that the HB (Highway Business) zoning segment of the corridor should be addressed possibly through a workshop. He said that by eliminating uses such as auto sales and big box stores the properties in the HB (Highway Business) zoning along the corridor would be effectively down zoned.

Mr. Nail asked if there would be sidewalks along the corridor. Mr. Brown said there would be a multipurpose path along one side. Mr. Steen asked if the path would be similar to the one at River Run in Davidson. Mr. Brown said that it was. Mr. Steen asked if this would be the first one in Mooresville. Mr. Brown said that there was a similar recommendation along North Carolina Highway 115 (Mecklenburg Highway).

Mr. Martin asked how many access points would be available in the divided median. He said that he lived in the Deerwood subdivision, and he wanted to know if he would have to drive north from his neighborhood to the next access point in order to proceed south. Mr. Culberson said that US Highway 21 was a state maintained road. He explained that the North Carolina Department of Transportation would decide on the number of median breaks. He stated that the Brawley School Road widening project had median breaks that were located at signalized intersections and at twelve hundred (1200') foot intervals. Mr. Brown said that this would likely be the pattern for the US Highway 21 corridor. He said that the divided median would not prohibit but manage the movement of traffic. Mr. Brown said that the access points were not specifically addressed in the plan. Mr. Martin asked that if an



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individual would be able to drive in the opposite direction at each of the twelve hundred (1200') foot cuts. Mr. Brown said that full turn movements would be possible. Mr. Martin said that once the median was installed on Brawley School Road businesses would be adversely affected by the restricted vehicular movement.

Mr. Steen said that he was pleased that parks were integrated in the plan. Mr. Brown said that the plan allowed for greenways. He said that the plan was consistent and supportive of the adopted Parks and Greenway Master Plan.

Mr. Brown asked if the Board members wanted further study of the plan in comparison to the Comprehensive Land Use Plan due to the zoning conflict along the corridor. Mr. Steen asked if the Planning Staff would solicit the property owners in the HB (Highway Business) segment of the corridor for their feelings about the zoning. Mr. Brown said that the workshops were open to the public.

Mr. King said that based on the current Zoning Ordinance properties that were zoned HB (Highway Business) were allowed to have car lots. He explained that the US Highway 21 Small Area Plan document as adopted would not guide the regulatory document. He said that the Zoning Ordinance superseded the plan. He indicated that the Planning Staff needed the guidance of the Planning Board in how to proceed with the conflict with the current Zoning Ordinance. He said that a workshop to address an overlay for the HB (Highway Business) Zoning District was one possibility. He also said that regulations for this zoning district could also be considered.

Mr. Nail and Mr. Ogburn said that workshops were very informative for them.

Mr. Brown asked the Planning Board members for a recommendation of approval of the US Highway 21 Small Area Plan.

ACTION: Mr. Ogburn made a motion to make a recommendation to adopt the US Highway 21 Small Area Plan. Mr. Steen seconded the motion. The motion passed unanimously.

6. Consideration of a report from the Planning Department Staff to the Planning Board concerning churches in the General Industrial (GI) Zoning District.

(At the September 9, 2010 Planning Board meeting, the Planning Staff was directed to study the feasibility of allowing churches in the HB (Highway Business), GI (General Industrial), or EI (Exclusive Industrial) Zoning Districts.)



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Mr. Culberson said that initially the request was made by a property owner whose property was located in the GI (General Industrial) Zoning District. He said that these three zoning districts did not allow the use.

He explained that the Planning Staff had reviewed the requirements in the Zoning Ordinance to determine if a text amendment should be brought forth to allow churches to be located in the HB (Highway Business), GI (General Industrial), or EI (Exclusive Industrial) Zoning Districts. He indicated that it was the opinion of the Planning Department that a Text Amendment was not warranted.

He stated that churches were currently allowed in eleven (11) of the fourteen (14) Town of Mooresville Zoning Districts. He said that the majority of the land area within the Town's zoning jurisdiction was available for the location of a church facility. He continued saying that appropriate zoning existed for the location of churches in generally all areas of the town. Indicating the map, Mr. Culberson said that in the areas shown in yellow were areas that zoning supported church uses and areas in salmon did not support the use.

He stated that zoning districts were established to facilitate the orderly development of land uses. He indicated that it was the intent of the zoning districts to place together compatible and complementary land uses in patterns that did not intrude on incompatible adjacent land use districts. He said that the zoning districts did not dictate what types of buildings were built to accommodate the allowed uses.

He explained that a church in HB (Highway Business), GI (General Industrial), and EI (Exclusive Industrial) would establish a land use that would be incompatible with the existing and intended land uses in those districts. He said that the uses that were allowed in those districts were more intense in nature with regard to hours of operation, intensity of use with regard to traffic volumes, and possible light, noise or other components of the operation of the use(s) that may be incompatible with the church use. He said that the hours of operation could not be regulated on a use by right. The church would have to deal with any and all existing conditions of the neighboring uses within the district.

He said that the location of a church use in these districts could deter potential neighboring users. He explained that if there were vacant buildings available adjacent to or close to church uses, it might be difficult to sell or lease these buildings due to potential concerns about locating next to a church.

He said that the districts supported industrial, employment, manufacturing, warehousing, and other commercial and retail uses. He indicated that church uses would limit the economic potential and viability of those districts

He reiterated that the Planning Board at its September 9, 2010 meeting noted that a church would seem to have hours of operation that would not be in conflict with other uses in the Lakeside Business Park. He noted that while this might be true if the church operation was only on Sunday morning, there was always the potential for weekday activities such as day cares and schools. He said that unexpected



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events such as funerals could also be in conflict with other uses. He explained that there would be no ability to require adjacent uses to cease operations that might disturb said activities during the week, and that activities could introduce significantly more traffic into the area. He said that there would be more interaction between cars and trucks or other heavy equipment that frequented the roads within those zoning districts.

He explained that the Planning Department Staff researched and discussed the topic and weighed the pros and cons of allowing churches to locate within the GI (General Industrial), HB (Highway), and EI (Exclusive Industrial) Zoning Districts. He said the conclusion that was reached was that allowing churches in these districts would not be in the best interest of the town or the surrounding properties. He stated that the general mix of uses that were currently allowed in the districts was determined to be incompatible with church uses.

He noted that the request to allow churches was facilitated by an individual who wanted to sell a building and by the church who wanted to buy the building. He said that the church's representative stated that the building, which was located in a GI (General Industrial) Zoning District, would be the cheapest to renovate. He explained that the request was based on economics and not the appropriate land use. He reminded the Board members that the purpose of zoning was to facilitate appropriate land use, not economics.

Mr. Culberson indicated that the Planning Staff's recommendation was that a text amendment not be brought forward to allow churches to locate within the HB (Highway), GI (General Industrial), or EI (Exclusive) Zoning Districts.

He said that the gentleman that first made the request had met with the Planning Staff. He said that that gentleman would be presenting a Rezoning request to the Planning Board on November 10, 2010. He said that the request would make church uses more appropriate.

Mr. Martin said that he agreed that church uses were not appropriate in the mentioned zoning districts.

Mr. Martin made a motion to not pursue a Text Amendment to allow churches in the General Industrial (GI) Zoning District. Mr. Brawley seconded the motion. The motion passed unanimously.

7. Consideration of other business.

There was no other business.

ACTION: Mr. Steen made a motion to adjourn the meeting. Mr. Martin seconded the motion. Mr. Nail adjourned the meeting at 7:53 p.m.