



TOWN OF CORNELIUS

Cornelius Town Hall

BOARD OF COMMISSIONERS

August 19, 2019

Agenda

PRE-MEETING - 5:45 PM

- Continuum Update
- Closed Session

TOWN BOARD - 7:00 PM

1. CALL TO ORDER
2. DETERMINATION OF QUORUM
3. APPROVAL OF AGENDA
4. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
5. MAYOR/COMMISSIONERS/MANAGER REPORTS
6. CITIZEN CONCERNS/COMMENTS
7. PRESENTATIONS
 - A. Top Deck Foundation
8. PUBLIC HEARING
 - A. REZ 05-19 Leaf Spring School - Public Hearing #1
9. CONSIDERATION OF APPROVAL
 - A. Planning Board Chairman Appointment
 - B. Cain Center for the Arts-Architectural Services Contract-Amend #1
 - C. Cain Center for the Arts-Construction Manager at Risk Contract-Amend #1
 - D. Cain Center for the Arts-Management Services Agreement-Amend #2
 - E. Capital Project Ordinance Amendment-Cain Center for the Arts
10. CONSENT AGENDA
 - A. Approve Minutes - Regular Meeting
11. COMMISSIONER CONCERNS
12. ADJOURNMENT

Please note that to speak during **CITIZENS CONCERNS/COMMENTS** or **PUBLIC COMMENT**, please use the signup sheet provided before the Board meeting and list your name, address and topic. Each speaker will be allowed 3 minutes to speak. A "hard stop" will occur after 3 minutes for each speaker. Any information displayed must be submitted to the Town Clerk within 48 hours prior meeting.

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Andrew Grant, Town Manager

Action Requested:

Mark McDowell, the Cornelius liaison, will give an update on Continuum.

Manager's Recommendation:

Hear update.

ATTACHMENTS:

Name:	Description:	Type:
 Continuum Update to Cornelius Town Board 8-19-2019.pdf	Continuum Update	Presentation



Report to the Cornelius Town Board

August 19, 2019



Continuum Sale Process - Timeline

- March 2019 – Sale Process Initiated
- April 23 – First round bids received, with six offers above \$70 million selected to move forward
- May 16 – CEO David Augur passes away from complications of cancer
- May 18 – Emergency Continuum board meeting; board member Bob Guth accepts role of Interim CEO
- June 13 – Six final bids received, ranging from \$60 million to \$80 million, with three bids at \$75 million or above chosen for further dialogue
- June 18 – Three top bidders, ranging from \$75 to \$80 million, given the chance to improve their offering price and/or their terms
- June 21-24 – Final revised bids received and negotiations begun with lead bidder, TDS, with an offering price of \$80 million
- June 24-July 3 – Detailed negotiations with TDS
- July 3 – 30 day Exclusivity agreement executed with TDS
- July 3 – Second highest bidder submits an out-of-process letter raising their bid to \$81.5 million
- July 10 – Second highest bidder submits a second out-of-process letter raising their bid to \$83 million
- July 3 – August 3 – APA negotiations continue with TDS
- August 3 – Exclusivity period extended through August 9th
- August 9 – APA and Schedules substantially complete, exclusivity extended to August 14th
- August 13 – Towns and Continuum Board vote unanimously to approve sale of Continuum
- November – Town referendums to be held to approve sale of Continuum
- November/December – Projected Transaction close



Summary of Key Terms

Category	Details
Purchase Price	\$80 Million, subject to Working Capital Adjustments, Escrow, and Indemnification provisions
Working Capital	Adjustment at expense of Seller if NWC is less than (\$1,100,000), and benefit of Seller if above
Use Of Proceeds	Used to satisfy balance of Installment Financings of approximately \$59 million and all other obligations
Employees	TDS will employ substantially all of Continuum's employees (subject to Purchaser's hiring criteria such as drug and background checks)
Indemnity and Escrow Provisions	<p>TDS has obtained a R&W Policy at its expense, which will be the primary recourse for breaches by Seller</p> <p>Indemnification by seller for excluded liabilities including Pension, BVU, and Inter-local claims</p>
RGU Penalties	All performance penalties removed from APA
Termination Fee	Fee of \$2,000,000 payable by seller parties if agreement is terminated and, within 2 years, Continuum enters into another transaction



TDS Background

- Founded in 1969
- Public Company, traded on the NY Stock Exchange (TDS)
- Initially operated primarily as an Independent Telephone Company
- Video and Broadband services added over time, organically and via acquisition, as well as managed services
- TDS currently owns and operates the 5th largest Wireless business in the country – US Cellular
- Purchase of Continuum represents an important strategic step for the company, opening a new foothold in this region (and interestingly, overlapping somewhat with their wireless footprint)
- Purchase functionally being done at the TDS Telecom subsidiary level
- On-site visit tentatively scheduled for August 27th



Draft Ballot Language (Asset Purchase Agreement Exhibit H)

NOVEMBER 5, 2019, REFERENDUM

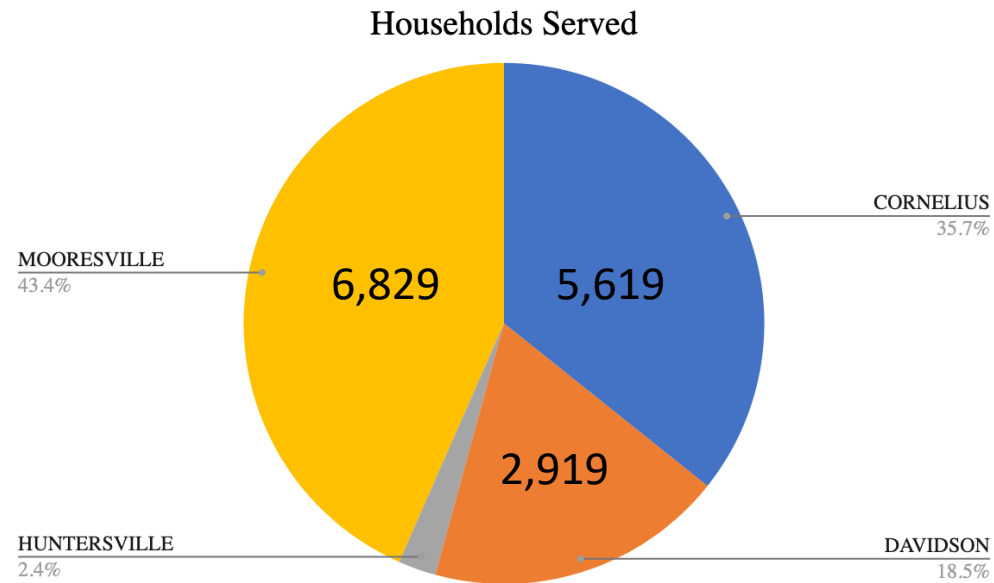
☐ FOR

☐ AGAINST

The sale of the communication system known as Continuum and related assets to [Buyer] on terms approved by the Boards of Commissioners of the Town of Mooresville and the Town of Davidson, including a total purchase price of \$80 million, subject to adjustments, escrows, and provisions obligating the Towns of Mooresville and Davidson to indemnify the buyer for certain losses caused by breaches of warranties and representations or excluded liabilities. The complete terms of sale are contained in an Asset Purchase Agreement which is available for review at the Mooresville Town Hall [Davidson] and online at <www.mooresvillenc.gov/_____>. The proceeds of sale will be used to satisfy the balance due on the installment financings of approximately \$_____ and other obligations, and the remainder will go to the Towns of Mooresville and Davidson



Cornelius & Continuum



Original Debt	\$92,550,000		
Debt Payments			
Continuum	\$26,850,000		
Mooresville	\$32,832,000	*	
Davidson	\$11,538,000		
Total	\$71,220,000		
Debt Balance (Approx)	\$59,000,000		
* Mooresville has paid \$1.7M onn behalf of Davidson which must be repaid by Davidson			



REQUEST FOR BOARD ACTION

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Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Andrew Grant, Town Manager

Action Requested:

Hold a Closed Session to discuss the following:

- A litigation matter under attorney-client privilege
- Consult with Town Attorney
- Contractual Matter under attorney-client privilege

Manager's Recommendation:

Hold a Closed Session.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

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Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Andrew Grant, Town Manager

Action Requested:

Top Deck Foundation members Don Rainey, Bridget Rainey, Kim Sailors, Mark Sailors, Diana Rochester and David Rochester will present the new Dual-Purpose motorbike to the Town.

Manager's Recommendation:

Hear presentation.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

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Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Aaron Tucker- Assistant Planning Director








Action Requested:

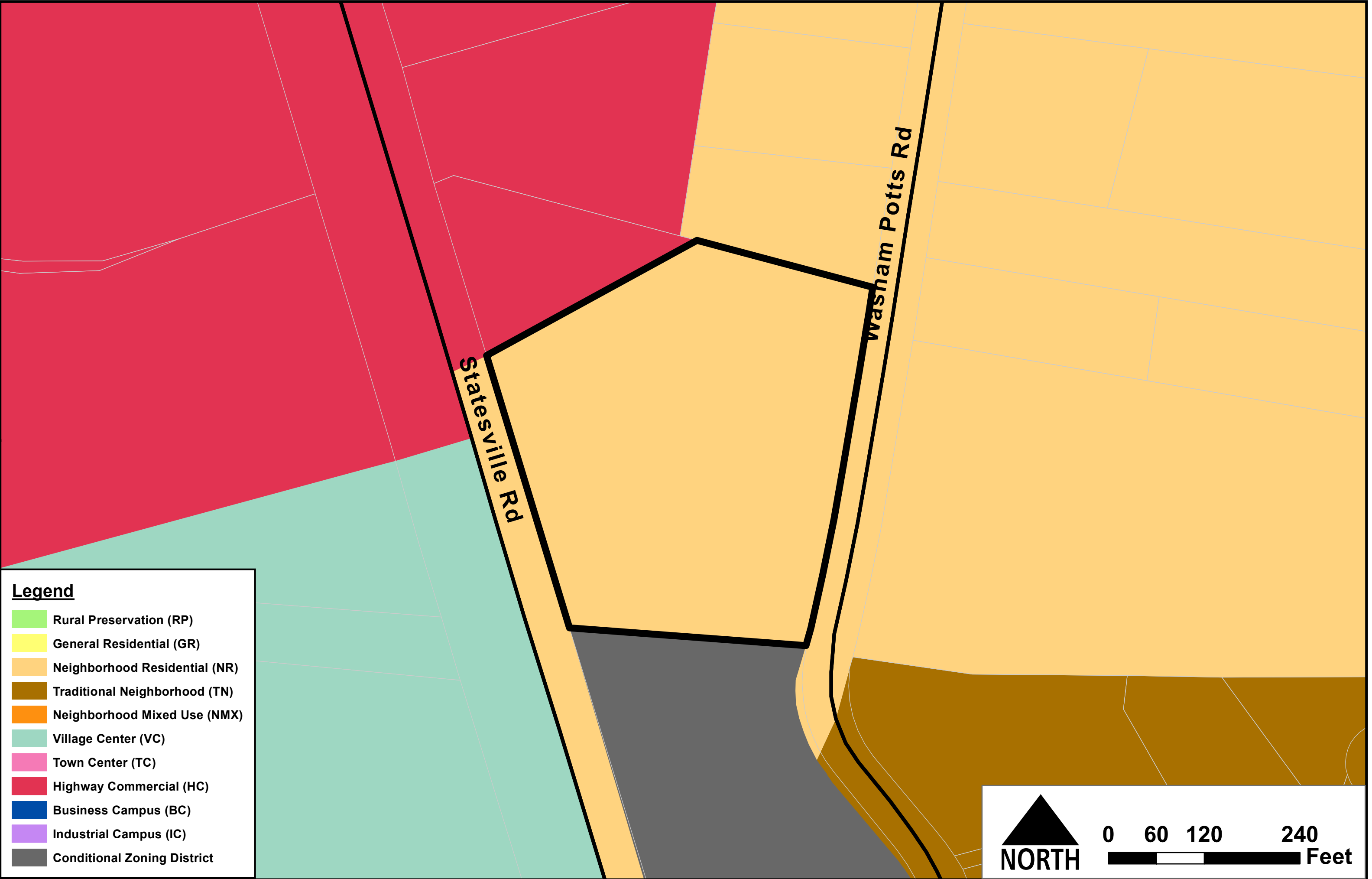
Receive public input for a request by Bazow Holdings Cornelius, LLC to rezone and develop 4.1 acres of residential property at 18100 Statesville Rd. (PID#: 00508119). The parcel is currently zoned Neighborhood Residential (NR). The proposed development will include a ±14,000 sf Preschool and ±10,000 sf Afterschool building called The Village. This development is also proposing access on both Statesville Rd. and Washam Potts Rd.

Manager's Recommendation:












Conduct Public Hearing #1.


ATTACHMENTS:

Name:	Description:	Type:
 18100_Statesville_Rd_Zoning.pdf	Zoning Map	Backup Material
 18100_Statesville_Rd_LU.pdf	Land Use Map	Backup Material
 18100_Statesville_Rd_Vicinity.pdf	Vicinity Map	Backup Material
 18100_Statesville_Rd_Property.pdf	Property Map	Backup Material
 00681_Leafspring_Cornelius-RZ-1_(Render).pdf	Color Site Plan	Backup Material
 00681_Leafspring_Cornelius-RZ-2_(1).pdf	Preschool Elevations	Backup Material
 00681_Leafspring_Cornelius-RZ-3_(1).pdf	Afterschool (The Village) Elevations	Backup Material




Legend

-  Rural Preservation (RP)
-  General Residential (GR)
-  Neighborhood Residential (NR)
-  Traditional Neighborhood (TN)
-  Neighborhood Mixed Use (NMX)
-  Village Center (VC)
-  Town Center (TC)
-  Highway Commercial (HC)
-  Business Campus (BC)
-  Industrial Campus (IC)
-  Conditional Zoning District

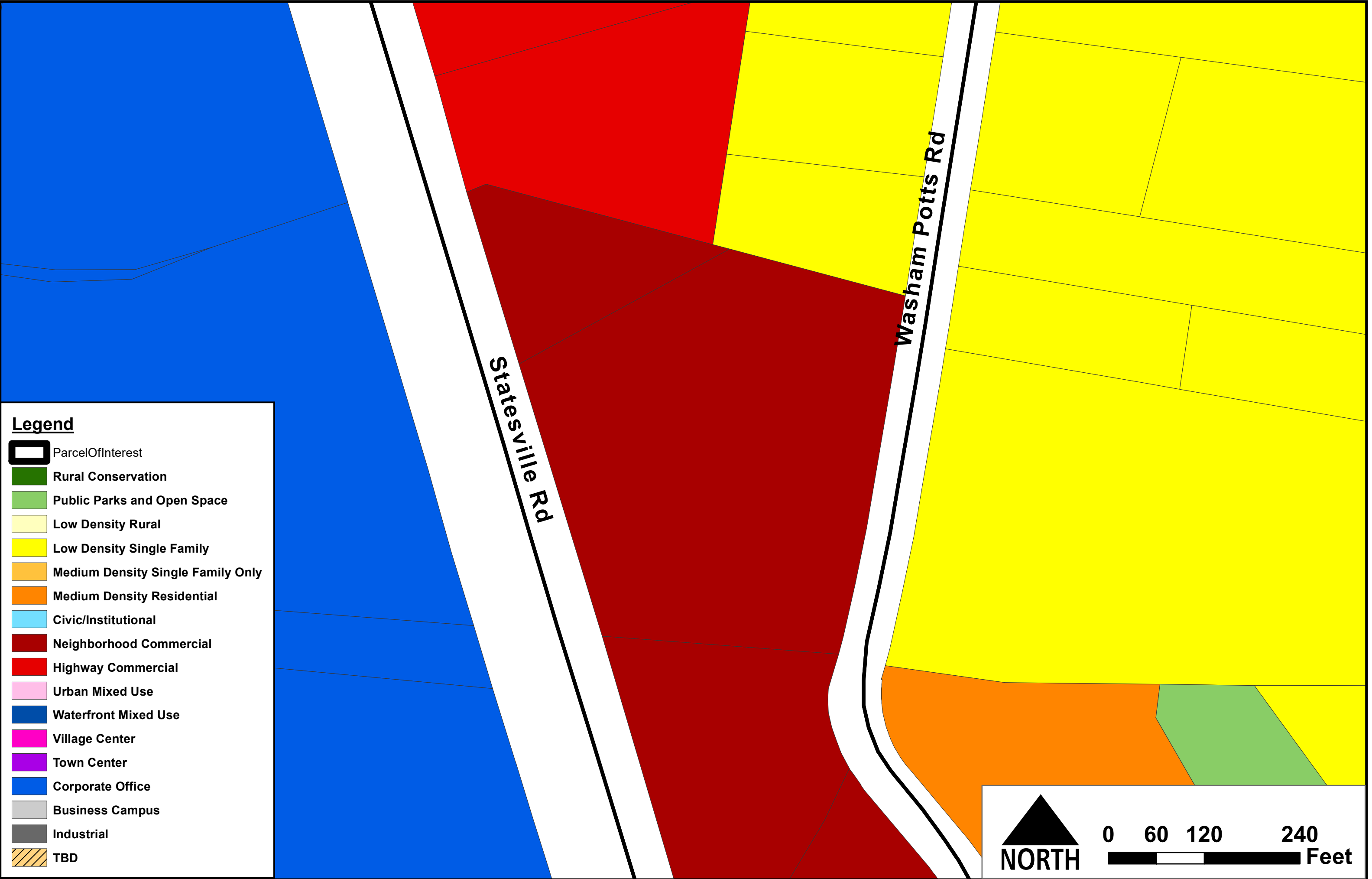


NORTH



















0 60 120 240




Feet




Legend

-  ParcelOfInterest
-  Rural Conservation
-  Public Parks and Open Space
-  Low Density Rural
-  Low Density Single Family
-  Medium Density Single Family Only
-  Medium Density Residential
-  Civic/Institutional
-  Neighborhood Commercial
-  Highway Commercial
-  Urban Mixed Use
-  Waterfront Mixed Use
-  Village Center
-  Town Center
-  Corporate Office
-  Business Campus
-  Industrial
-  TBD



NORTH

0 60 120 240



Feet



Statesville Rd

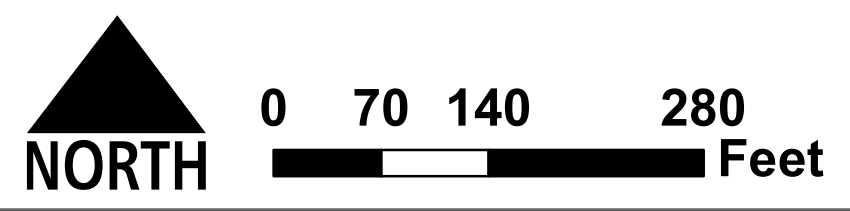
Washam Potts Rd

Cadman Ct

Cowboy

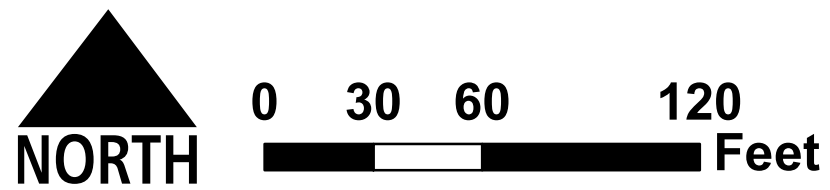
Oakhurst

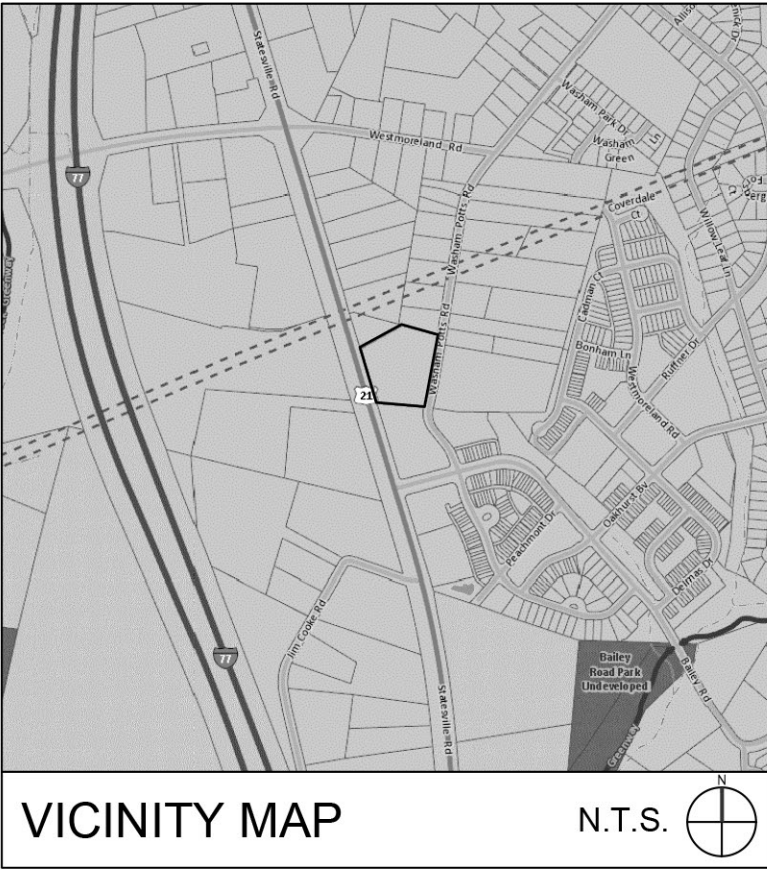
Bailey Rd



Statesville Rd

Washam Potts Rd





ZONING SUMMARY:

OWNER: JEFF BAZOW
CIVIL ENGINEER/LANDSCAPE ARCHITECT: BLOC DESIGN, PLLC
BLOC DESIGN PHONE # 704-940-2883
ZONING DESIGNATION: C2
JURISDICTION: TOWN OF CORNELIUS
PARCEL SIZE: 4.137 ACRES
PROJECT AREA: 4.137 ACRES
PARCEL NUMBER: 00508119
SETBACK AND YARD REQUIREMENTS
FRONT: 30' FRONT SETBACK
SIDE: NONE
REAR: 30' REAR SETBACK
SCREENING REQUIRED
FRONT: 15' WIDE PARKING SCREEN WITH 3' HIGH MASONRY WALL
SIDE: 10' WIDE PARKING SCREEN
REAR: 15' WIDE PARKING SCREEN WITH 3' HIGH MASONRY WALL
BUFFERS REQUIRED
FRONT: 15' WIDE LANDSCAPE BUFFER
SIDE: 30' RESIDENTIAL BUFFER
REAR: 15' WIDE LANDSCAPE BUFFER
IMPERVIOUS COVERAGE: TOTAL: 85,200
BUILDING COVERAGE: 23,000 SF
PAVING COVERAGE: 40,200 SF
APPROXIMATE PLAYGROUND COVERAGE: 22,000 (BASED ON LEAFSPRING MATTHEWS)
(SYNTHETIC RUBBER PLAYGROUND MATERIAL)
PARKING SUMMARY MAXIMUM 4 SPACES/1,000 SF - MINIMUM 2 SPACES/1,000 SF
REQUIRED: MAX. 52 SPACES, MIN. 46 SPACES (TOTAL BUILDING AREA OF 23,000 SF)
PROVIDED: 55 (REGULAR: 51, ACCESSIBLE: 4 INC. VAN SPACE, COMPACT 0)
LOADING SPACES: N/A
BICYCLE PARKING SUMMARY (TOWN OF CORNELIUS)
SHORT TERM: 4
LONG TERM: N/A

DEVELOPMENT STANDARDS

- THESE DEVELOPMENT STANDARDS FORM A PART OF THE REZONING PLAN ASSOCIATED WITH THE REZONING APPLICATION FILED BY BAZOW HOLDINGS CORNELIUS, LLC FOR AN APPROXIMATELY 4.1 ACRE SITE LOCATED AT 18100 STATESVILLE RD CORNELIUS NC 28031. TAX PARCEL ID #00508119.
- THE DEVELOPMENT AND USE OF THE SITE WILL BE GOVERNED BY THE REZONING PLAN, THESE DEVELOPMENT STANDARDS AND THE APPLICABLE PROVISIONS OF THE TOWN OF CORNELIUS' UNIFIED DEVELOPMENT ORDINANCE.
- FUTURE AMENDMENTS TO THE REZONING PLAN AND/OR THESE DEVELOPMENT STANDARDS MAY BE APPLIED FOR BY THE OWNERS OF THE SITE IN ACCORDANCE WITH THE PROVISIONS OF THE ORDINANCE. MINOR ALTERATIONS OR CHANGES TO THE REZONING PLAN AND/OR THESE DEVELOPMENT STANDARDS ARE SUBJECT TO PROVISIONS WITHIN THE ORDINANCE.
- SCREENING, LANDSCAPING AND BUFFERS: SCREENING AND LANDSCAPING SHALL CONFORM TO THE STANDARDS OF THE ORDINANCE.
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- VEHICULAR PARKING SHALL BE PROVIDED ON THE SITE IN ACCORDANCE WITH THE REQUIREMENTS OF THE ORDINANCE AND AS DEPICTED ON THE PLANS.
- THE ALIGNMENTS OF THE INTERNAL DRIVES AND PARKING AREAS TO BE LOCATED ON THE SITE ARE SUBJECT TO ANY MINOR MODIFICATIONS OR ALTERATIONS REQUIRED DURING THE DESIGN DEVELOPMENT AND CONSTRUCTION PERMITTING PROCESSES.
- SIGNS: ALL SIGNS INSTALLED ON THE SITE SHALL COMPLY WITH THE REQUIREMENTS OF THE ORDINANCE. SIGNS WILL BE INSTALLED AT BOTH ENTRANCE DRIVES.
- STORM WATER: THE DEVELOPMENT OF THE SITE SHALL COMPLY WITH THE REQUIREMENTS OF THE MECKLENBURG COUNTY STORMWATER ORDINANCE.
- BINDING EFFECT OF THE REZONING APPLICATION: IF THIS REZONING APPLICATION IS APPROVED, ALL CONDITIONS APPLICABLE TO THE DEVELOPMENT AND/OR USE OF THE SITE IMPOSED UNDER THIS REZONING PLAN WILL, UNLESS AMENDED IN THE MANNER PROVIDED UNDER THE ORDINANCE, BE BINDING UPON AND ENJOYED TO THE BENEFIT OF APPLICANT AND THE CURRENT AND SUBSEQUENT OWNERS OF THE SITE AND THEIR RESPECTIVE SUCCESSORS IN INTEREST AND ASSIGNS. THROUGHOUT THESE DEVELOPMENT STANDARDS, THE TERMS "APPLICANT" AND "OWNER" OR "OWNERS" SHALL BE DEEMED TO INCLUDE THE HEIR, DEVISEE, PERSONAL REPRESENTATIVES, SUCCESSORS IN INTEREST AND ASSIGNS OF APPLICANT OR THE OWNER OR OWNERS OF THE SITE FROM TIME TO TIME WHO MAY BE INVOLVED IN ANY FUTURE DEVELOPMENT THEREOF.



- CONTRACTOR IS RESPONSIBLE FOR PLACEMENT OF ALL BARRICADES, SIGNAGE, FLAGGERS, SHORING, ETC., TO ENSURE THE SAFETY OF WORKERS AND THE PUBLIC.
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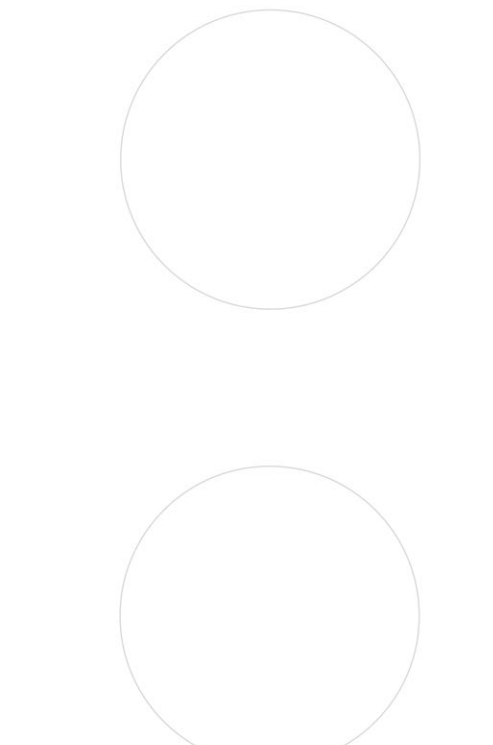
landscape architecture | planning | civil engineering

REVISIONS

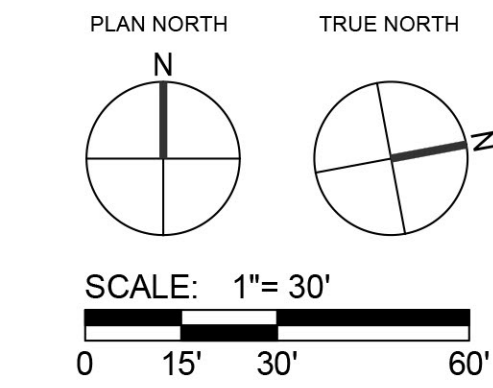
NO.	DATE	DESCRIPTION

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stamp / seal:



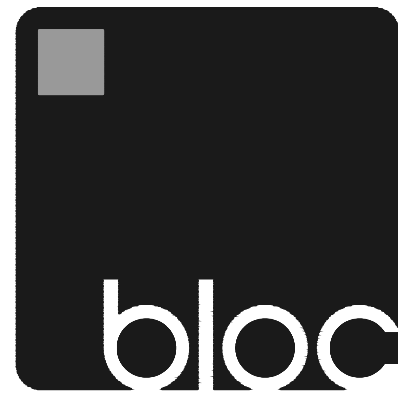
Leafspring Cornelius
After school & Pre-school
Child Care Facility
18100 Statesville Road
Cornelius, NC 28031



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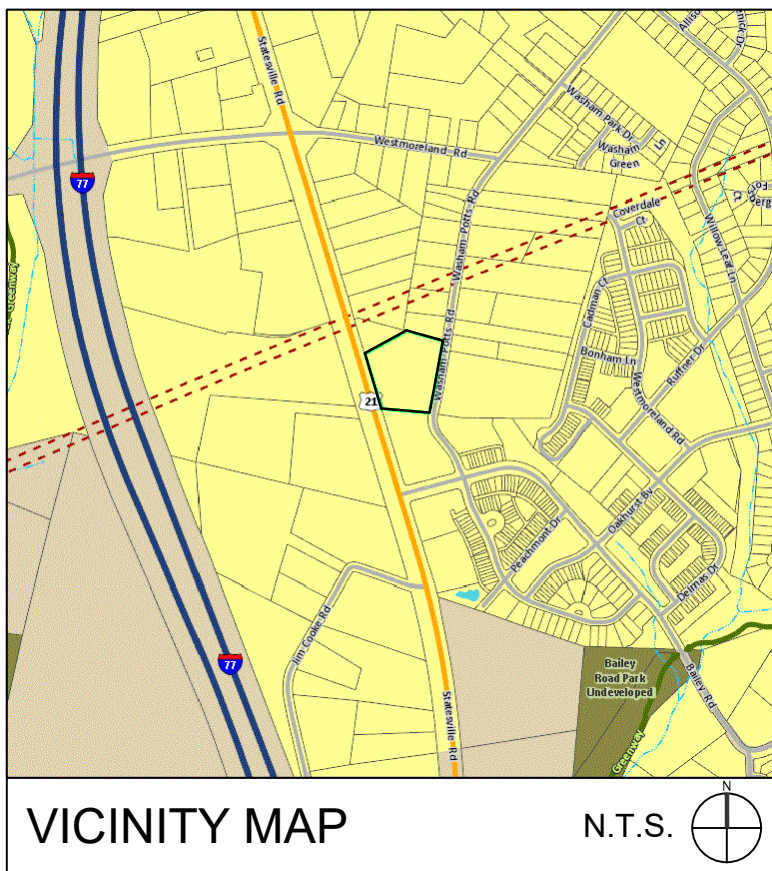
SHEET NO:

RZ-1



Bloc Design
2923 S. Tryon Street, Suite 320
Charlotte, NC 28203
phone: 704-940-2883
www.bloc-nc.com

landscape architecture | planning | civil engineering



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0 5' 10' 20'

DATE: 07/22/19 MPIC: CCB

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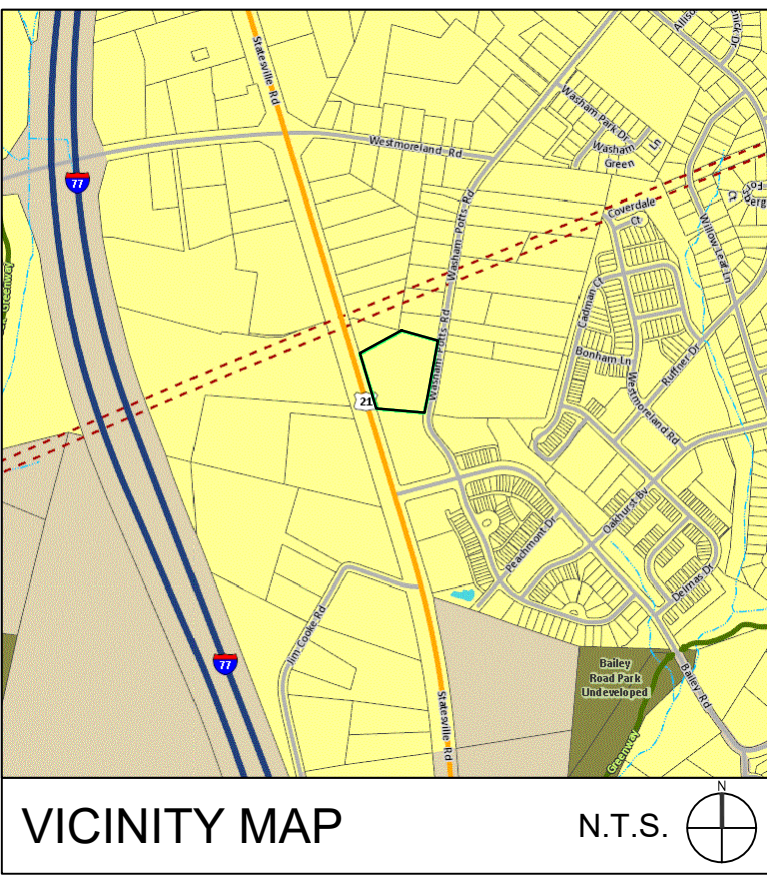
TITLE:
BUILDING ELEVATIONS
PRE-SCHOOL BUILDING

SHEET NO:

RZ-2



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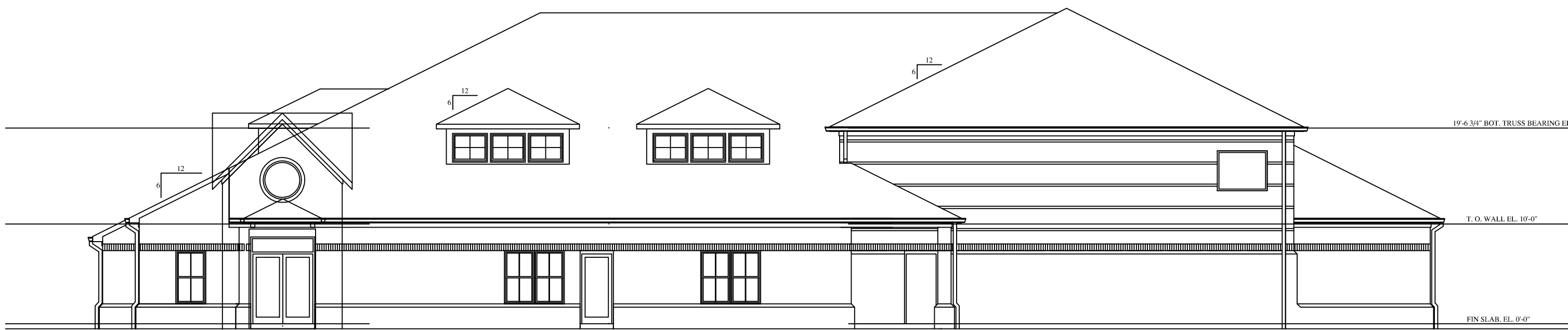
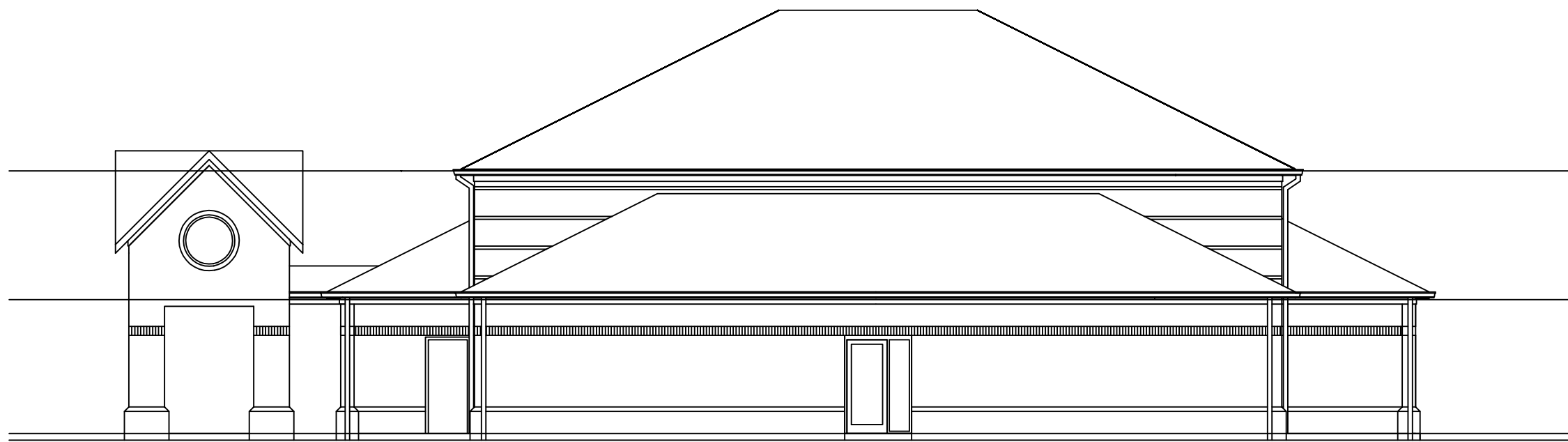
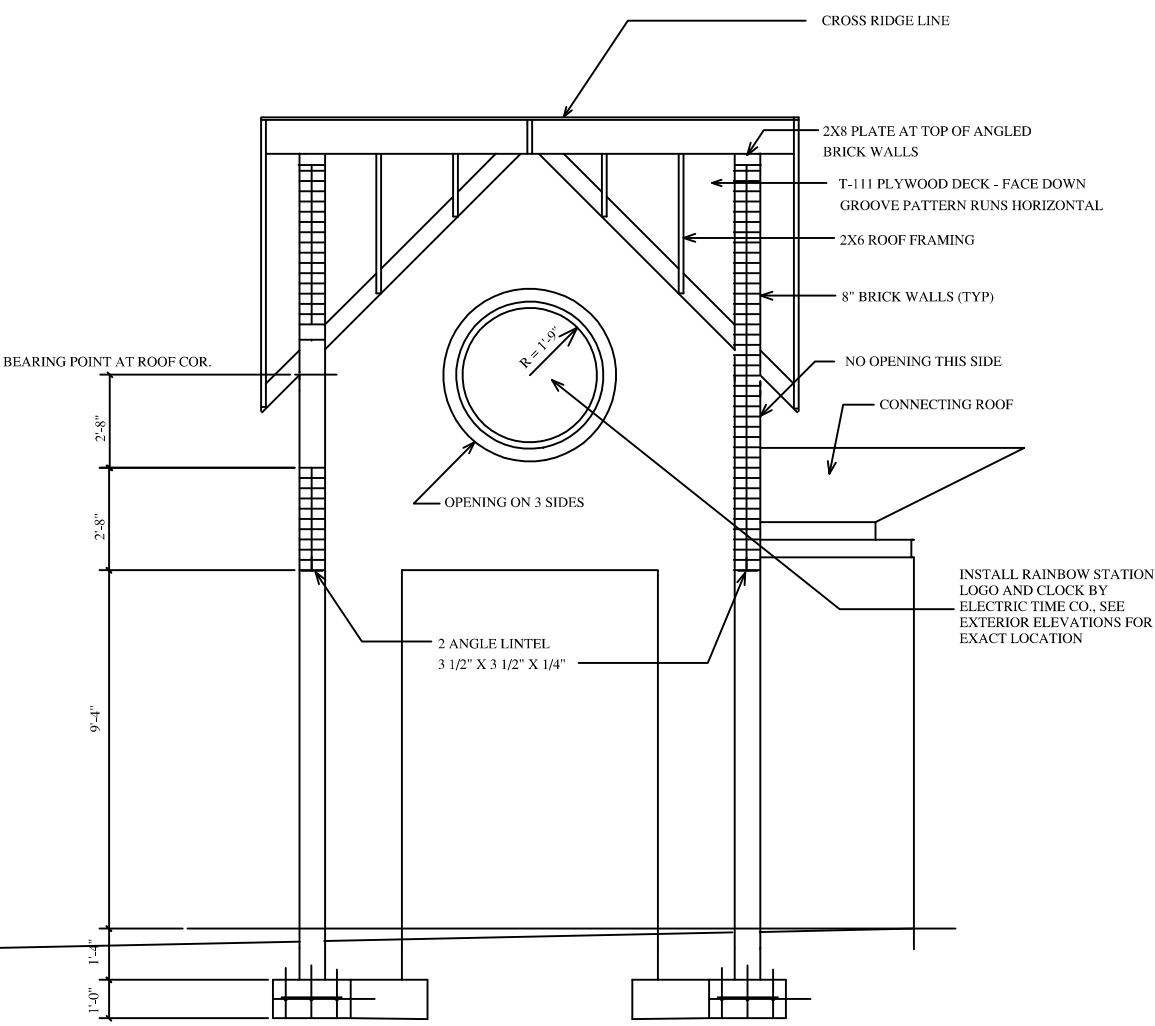


ZONING SUMMARY:

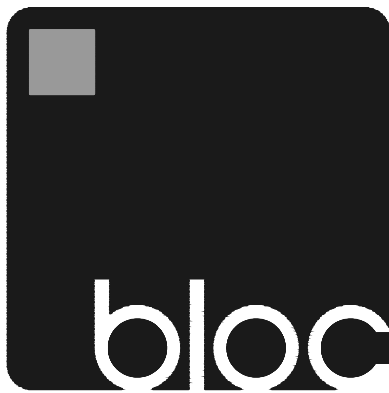
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- SCREENING, LANDSCAPING AND BUFFERS: SCREENING AND LANDSCAPING SHALL CONFORM TO THE STANDARDS OF THE ORDINANCE.
- TRANSPORTATION AND PARKING: VEHICULAR ACCESS SHALL BE AS GENERALLY DEPICTED ON THE REZONING PLAN. THE PLACEMENT AND CONFIGURATION OF THE ACCESS POINTS ARE SUBJECT TO ANY MINOR MODIFICATIONS REQUIRED BY MCDOT AND THE TOWN OF CORNELIUS.
- VEHICULAR PARKING SHALL BE PROVIDED ON THE SITE IN ACCORDANCE WITH THE REQUIREMENTS OF THE ORDINANCE AND AS DEPICTED ON THE PLANS.
- THE ALIGNMENTS OF THE INTERNAL DRIVES AND PARKING AREAS TO BE LOCATED ON THE SITE ARE SUBJECT TO ANY MINOR MODIFICATIONS OR ALTERATIONS REQUIRED DURING THE DESIGN DEVELOPMENT AND CONSTRUCTION PERMITTING PROCESSES.
- SIGNS: ALL SIGNS INSTALLED ON THE SITE SHALL COMPLY WITH THE REQUIREMENTS OF THE ORDINANCE. SIGNS WILL BE INSTALLED AT BOTH ENTRANCE DRIVES.
- STORM WATER: THE DEVELOPMENT OF THE SITE SHALL COMPLY WITH THE REQUIREMENTS OF THE MECKLENBURG COUNTY STORMWATER ORDINANCE.
- BINDING EFFECT OF THE REZONING APPLICATION: IF THIS REZONING APPLICATION IS APPROVED, ALL CONDITIONS APPLICABLE TO THE DEVELOPMENT AND/OR USE OF THE SITE IMPOSED UNDER THIS REZONING PLAN WILL, UNLESS AMENDED IN THE MANNER PROVIDED UNDER THE ORDINANCE, BE BINDING UPON AND ENURE TO THE BENEFIT OF APPLICANT AND THE CURRENT AND SUBSEQUENT OWNERS OF THE SITE AND THEIR RESPECTIVE SUCCESSORS IN INTEREST AND ASSIGNS. THROUGHOUT THESE DEVELOPMENT STANDARDS, THE TERMS, "APPLICANT" AND "OWNER" OR "OWNERS" SHALL BE DEEMED TO INCLUDE THE HEIRS, DEVISEES, PERSONAL REPRESENTATIVES, SUCCESSORS IN INTEREST AND ASSIGNS OF APPLICANT OR THE OWNER OR OWNERS OF THE SITE FROM TIME TO TIME WHO MAY BE INVOLVED IN ANY FUTURE DEVELOPMENT THEREOF.



- CONTRACTOR IS RESPONSIBLE FOR PLACEMENT OF ALL BARRICADES, SIGNAGE, FLAGGERS, SHORING, ETC., TO ENSURE THE SAFETY OF WORKERS AND THE PUBLIC.
- ALL PAVEMENT CUTS SHALL BE REPLACED ACCORDING TO NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND CHARLOTTE WATER.



Bloc Design
2923 S. Tryon Street, Suite 320
Charlotte, NC 28203
phone: 704-940-2883
www.bloc-nc.com

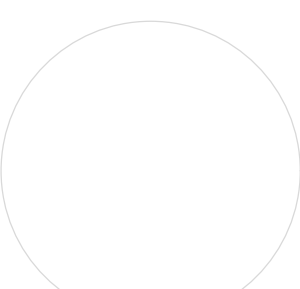
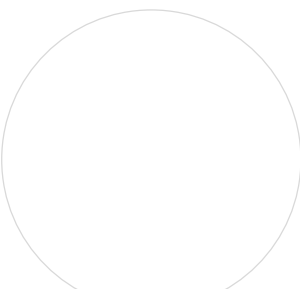
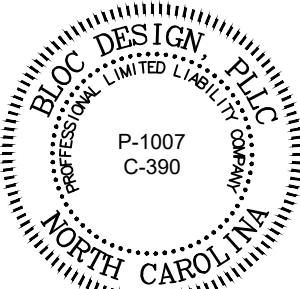
landscape architecture | planning | civil engineering

REVISIONS

NO.	DATE	DESCRIPTION

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stamp / seal:



Leafspring Cornelius
After school & Pre-school
Child Care Facility
18100 Statesville Road
Cornelius, NC 28031

SCALE: 1"= 10'
0 5' 10' 20'

DATE: 07/22/19 MPIC: CCB

DRAWN BY: LWH CHECKED BY: CCB

PROJECT NUMBER: 00681.00

SCALE: 1"=10'

TITLE:
BUILDING ELEVATIONS
VILLAGE BUILDING

SHEET NO:

RZ-3

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Aaron Tucker, Assistant Planning Director

Action Requested:

In accordance with the Planning Board bylaws, the Town Board shall annually appoint the Planning Board Chairman.

The Planning Board has unanimously recommended Keith Eicher, be reappointed to serve as Chairman for a third year.

Mr. Eicher has served on the Planning Board since 2014 and last year was his second year as Chairman.

Manager's Recommendation:

Appoint Keith Eicher to serve as Planning Board Chairman for the coming year.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners
From: Tyler Beardsley, Assistant Town Manager

Action Requested:

On March 4, 2019, the Town Board approved a design contract with C-Design for the design, bidding and construction administration for the Cain Center for the Arts. After commencing schematic design, the Town and Cain Center for the Arts asked Rodgers Builders to conduct a construction estimating exercise. This exercise indicated the construction costs were higher than anticipated. Staff and Cain Center for the Arts eliminated items and value engineered, as well as adjusted the overall budget and fundraising goal. These increases have been approved by the Cain Center for the Arts Board. Due to the increased construction costs, the architect contract was adjusted to reflect these adjustments.

Manager's Recommendation:

Approve amendment #1 to the Architectural Services Contract.

ATTACHMENTS:

Name:	Description:	Type:
 CCA_Add_Service_No._1.pdf	Architectural Services - Amend #1	Backup Material



July 3, 2019

Andrew Grant, ICMA-CM
Town Manager
Town of Cornelius
21445 Catawba Avenue
PO Box 399
Cornelius, NC 28031

Reference: **ADDITIONAL SERVICES NO. 1
BASIC ARCHITECTURAL AND SUPPLEMENTAL SERVICES PROPOSAL
Cain Center For The Arts
Cornelius, North Carolina**

Dear Mr. Grant:

We understand the value of the Construction Cost for the Cain Arts Center was increased by the client last month. The increased budget, \$18,848,140, will better accommodate the programmatic needs of the project. The professional fee in the executed March 2019 contract was based on a Construction Cost Budget of \$16,848,140.

We request an Additional Services Contract Amendment to reflect this increase in the Construction Cost. The Amendment fee is based on the same percentage as that used to originally determine the Contract fee, 10.696%. To illustrate the fee modification, the following chart shows the additional fee calculation.

ADDITIONAL SERVICES NO. 1

Construction Budget and Fee as contracted March 4, 2019

- A. Contracted Construction Cost Budget = \$16,848,140
- B. Contracted Total Design Fee w/ Reimbursables = \$1,802,000
- C. Contracted Total Fee is 10.696% of the Construction Cost Budget
- D. Restated: \$16,848,140 X 10.696 ~ \$1,802,000 fee

Increase Construction Budget and additional fee

- E. Increased Construction Cost Budget = \$18,848,140
- F. Increased fee amount based on increased Construction Cost and the original fee percentage, 10.696 = \$2,015,997
- G. Restated Increased fee amount = \$213,997

ADDITIONAL DESIGN FEE =	\$207,797
ADDITIONAL REIMBURSABLES EXPENSES =	\$ 6,200
TOTAL ADDITIONAL SERVICES FEE =	\$213,997

Contract Amendment No. 1 - Additional Services will be provided by the Architect for a fee of \$213,997. All services shall follow the procedures and conditions outlined in the signed contract, AIA B101-2017, dated March 4, 2019.

The opportunity to work with you on this exciting project is appreciated.

Respectfully,

C DESIGN



7/3/19

Robert C. Crane, Jr, AIA (Date)
Managing Principal

Approved by:

TOWN OF CORNELIUS

Andrew Grant, ICMA-CM (Date)
Town Manager

CDI Project Number: 0604-0422/101

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Tyler Beardsley, Assistant Town Manager


Action Requested:

On March 4, 2019, the Town Board approved a \$40,000 pre-construction agreement with Rodgers Builders. Rodgers has asked for an additional \$5,000 based on additional budgeting tasks the Town and the Cain Center for the Arts has requested to ensure the construction budget was accurate.

Manager's Recommendation:

Approve amendment #1 to the Construction Manager at Risk Contract.

ATTACHMENTS:

Name:	Description:	Type:
 Cornelius_CAIN_Center_-_Additional_Preconstruction_Services.pdf	Construction Manager at Risk - Amend #1	Backup Material



Rodgers Builders, Inc.
PO Box 18446 (28218)
5701 North Sharon Amity Road
Charlotte, NC 28215

rodgersbuilders.com
704 537 6044 TELEPHONE
704 535 0055 FAX

July 10, 2019

Mr. Tyler Beardsley
Assistant Town Manager/Public Works Director
Town of Cornelius
21445 Catawba Avenue
Cornelius, North Carolina 28031

RE: Additional Preconstruction Services

Dear Mr. Beardsley:

This correspondence is to request an additional \$5,000 for Preconstruction Services provided by Rodgers Builders to cover additional services performed at the early stages of the of the Schematic Design phase of the project. Per the current Preconstruction Services Fee structure agreement, Rodgers included \$10,000 for Schematic Stage Preconstruction Services (SD), \$10,000 for Design Development Preconstruction Services (DD) and \$20,000 for Construction Document/GMP Construction Phase. The intermediate steps performed at the Schematic Budget phase would be in addition to the Schematic Design Cost Study that will be provided once the FINAL set of Schematic Design drawings are received. In summary, this is an intermediate service provided to assist with the overall project design and budget.

Please do not hesitate to call me at 704.634.6244 if you have any questions.

Very truly yours,

William Myer
Construction Manager

Andrew Grant, Town Manager
Town of Cornelius

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners
From: Tyler Beardsley, Asst. Town Manager

Action Requested:

In 2017, the Town and the Cain Center for the Arts entered into a Management Services Agreement (MSA). On March 4, 2019, the MSA was amended to further define the relationship and financial obligations of both parties as design started and construction pending.


After commencing schematic design, the Town and Cain Center for the Arts asked Rodgers Builders to conduct a construction estimating exercise. This exercise indicated the construction costs were higher than anticipated. Staff and Cain Center for the Arts eliminated items and value engineered, as well as adjusted the overall budget and fundraising goal. These increases have been approved by the Cain Center for the Arts Board. Due to the increased construction costs, the architect contract was adjusted to reflect these adjustments.

This second amendment adjusts the overall budget and modifies the financial obligations based on the updated construction budget and architects contract amendment. The revised project budget has increased by \$2,100,000 to \$22,700,000. This includes an additional \$5,000 for Rodgers Pre-Con Services, \$213,997 additional for C-Design, and additional \$1,881,003 for construction.

Manager's Recommendation:

Approve amendment #2 to the Management Services Agreement as presented.

ATTACHMENTS:

Name:	Description:	Type:
 MANAGEMENT_SERVICES_AGREEMENT_Amend_2.docx	Management Services Amend #2	Backup Material

AMENDMENT #2 to Management Services Agreement

This Amendment #2 (this "Second Amendment") is dated _____, 2019 [after CACC Board and Town Board approval] and is by and between the **Town of Cornelius** ("Town") and **Cornelius Arts & Community Center, Inc.** ("CACC") This Amendment amends the Management Services Contract dated **April 3, 2017 ("Original Agreement")**, as amended by that certain Amendment # 1 dated March 4, 2019 ("First Amendment") (collectively, the "Existing Agreement").

Background.

Town and CACC have agreed to increase the budget for the design and construction of the Center to \$22,700,000. The parties are entering into this Second Amendment to confirm this agreed upon increase in the budget and to make corresponding changes to the Existing Agreement.

Agreement.

In consideration of the mutual covenants and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, Town and CACC hereby agree as follows:

1. **Budget Amount.** The budget for the design and construction of the Center is \$22,700,00.

Accordingly:

- Exhibit A to the Original Agreement is revised to read as follows:

Work with Town to design the Center so that it can be constructed within the budget of available Town Bond funding [\$4,000,000] and the reasonably achievable fundraising goals determined after the fundraising study [currently \$18,700,000, for a total budget of \$22,700,000]

- Exhibit D to the First Amendment, is revised as set forth on Exhibit D attached hereto.

2. Miscellaneous. This Second Amendment is limited as specified and does not constitute a modification, acceptance or waiver of any other provision of the Existing Agreement. As expressly amended by this Second Amendment, the Existing Agreement will continue in full force and effect in accordance with its provisions. This Amendment may be executed in counterparts, each of which is an original and all of which together are deemed one and the same instrument. All capitalized terms not otherwise defined in this Amendment have the meanings assigned to them in the Agreement.

**CORNELIUS ARTS & COMMUNITY
CENTER, INC.**

TOWN OF CORNELIUS

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: Town Manager

Date: _____

Date: _____

For reference:

Approved by CACC Board: _____, 2019

Approved by Town of Cornelius Board of Commissioners: _____, 2019

EXHIBIT D

Payment Schedule – CACC to Town

Milestone (estimated phases, subject to change)	Estimated duration until next phase	Estimated Amount from CACC that is to be transferred from CACC to Town prior to the associated Milestone occurring (subject to change based on actual amounts, inclusive of any agreed upon contingency funding and reimbursable expenses)	Comment
Signing Architect Contract (Architect)/Commencement of Schematic Design	13 weeks (March 4, 2019)	[Schematic Design phase(\$270,300 + 1/3 of design contingency (\$40,000)] \$310,300 additional \$32,100 for C-Design Additional Service #1	Note: Town will have to encumber full amount of architect contract transferring fund balance to capital project budget
Signing of CM@R Pre- Construction Construction (CM@R)/Commencement of Schematic Design		[Amount of preconstruction services for schematic design phase(\$10,000 +1/3 of CM estimated reimbursable (\$1,667] \$11,667.	Note: Town will have to encumber full amount of CM@R contract transferring fund balance to capital project budget
Commencement of Design Development Drawings(Architect & CM@R)	17 weeks (September 17, 2019)	[Design Development phase (\$403,200) + CM@R Pre- Construction Fee (\$15,000 includes additional \$5,000) + 1/3 design contingency (\$40,000) + 1/3 of CM estimated reimbursable (1,667] (Architect & CM@R) \$459,866.	

Commencement of Construction Drawings(Architect & CM@R)	22 weeks (January 14, 2020)	[Construction Drawing phase (\$806,400 + CM@R Pre-Construction Fee (\$20,000) + 1/3 design contingency(40,000) + 1/3 of estimated CM reimbursable(\$1,666)] (Architect & CM@R) \$868,065	
Permitting and Bidding (Architect)	16 weeks (June 23, 2020)	Permitting & Bidding (Architect only \$100,800) \$100,800	
Construction Administration (Architect)	72 weeks (October 13, 2020)	Construction Administration (Architect only \$403,200)\$403,200	
Commencement of Construction; site work and building construction		[80% of estimated amount of Construction, including contingency less \$4,000,000 Town contribution] \$13,345,488	Note: Town funds its \$4,000,000 during this phase (upon LGC approval with 85% of estimated amount of construction costs provided by CACC work less \$4,000,000 Town contribution=\$14,179,581); Town will also have to encumber 20% estimated amount of construction costs work less \$4,000,000 Town contribution
Additional fundraising post-signing of GMP contract by Town in order to complete fundraising goals.		[20% estimated amount of construction work less \$4,000,000 Town contribution] \$3,336,372	Note: CACC to pay to Town as fundraising dollars collected.
Other Contracts	TBD	TBD	TBD

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Julie Niswonger, Finance Director

Action Requested:

In another item on tonight's agenda, the Town Board is being asked to amend the contract with the Architect for the design of the Cain Center for the Arts and a contract with a builder for Construction Manager at Risk preconstruction design services. The attached capital project ordinance provides the amended budget necessary to continue the design and preconstruction of the building for the Cain Center for the Arts with the revenue source identified as a transfer from general fund balance to the Cain Center for the Arts Capital Project Fund for \$218,997. Please keep in mind, at the beginning of each phase of design, the Cain Center for the Arts will pay the Town the contract amounts set forth in the Management Services Agreement.

Manager's Recommendation:

Approve an amendment to the Cain Center for the Arts Capital Project Ordinance.

ATTACHMENTS:

Name:	Description:	Type:
 Cain_Center_for_the_Arts_CPO_Amendment_1.pdf	CPO Amendment #1 Cain Center for the Arts	Cover Memo

**A CAPITAL PROJECT ORDINANCE TO AMEND THE FUNDING OF THE
CAIN CENTER FOR THE ARTS**

WHEREAS, it has been determined by the Board of Commissioners that in order to meet the demands of our growing community, it is necessary to provide performing arts and artistic educational facilities while remaining vigilant in their duty to control costs with such a facility; and

WHEREAS, the Cain Center for the Arts has been identified to provide performing arts and artistic educational facilities; and

WHEREAS, the Cain Center for the Arts will provide key theater and performing arts experiences to the Town of Cornelius; and

WHEREAS, in accordance with North Carolina General Statute §159-13.2, the Town is authorized to establish a balanced project ordinance for projects involving the construction/acquisition of a capital asset.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Cornelius that a Project Ordinance is hereby established for the Cain Center for the Arts with the following schedule of appropriations and expenditures:

REVENUES

	<u>ORIGINAL</u>	<u>AMENDED</u>	<u>CHANGE</u>
Transfer from General Fund	\$1,967,000	\$2,185,997	\$218,997
<i>Total</i>	<u><u>\$1,967,000</u></u>	<u><u>\$2,185,997</u></u>	<u><u>\$218,997</u></u>

EXPENDITURES

	<u>ORIGINAL</u>	<u>AMENDED</u>	<u>CHANGE</u>
Cain Center for the Arts			
Design/Pre-construction	\$1,967,000	\$2,185,997	\$218,997
<i>Total</i>	<u><u>\$1,967,000</u></u>	<u><u>\$2,185,997</u></u>	<u><u>\$218,997</u></u>

BE IT FURTHER ORDAINED that the Town Manager is authorized to transfer amounts among the aforementioned line items at his discretion as he deems necessary necessitating further action by the Board only to change the total amount of the budget. The Town Manager or his designee is hereby authorized to expend funds in accordance

with this Project Ordinance necessary to complete the project. Town Manager is hereby authorized to approve design services contract(s) scope changes that are less than \$35,000 and construction contract(s) scope changes that are less than \$75,000. Contract(s) scope changes that exceed these thresholds must be approved by the Board of Commissioners of the Town of Cornelius.

Adopted this 19th day of August, 2019.

Woodrow T. Washam Jr., Mayor

SEAL

ATTEST:

APPROVED AS TO FORM:

Lori A. Harrell
Town Clerk

Karen Wolter
Town Attorney

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: August 19, 2019

To: Mayor and Board of Commissioners

From: Lori Harrell, Town Clerk

Action Requested:

Review the minutes from the August 5th Regular Meeting.

Manager's Recommendation:

Approve minutes.

ATTACHMENTS:

Name:	Description:	Type:
 08-05-19_Regular_Meeting_draft.pdf	Regular Meeting Minutes	Backup Material



BOARD OF COMMISSIONERS

August 5, 2019
MINUTES

REGULAR MEETING – 7:00PM

1. CALL TO ORDER

Mayor Washam was joined at the dais by Reid and Tripp Tammaro from Pine Lake Preparatory. He explained that Reid won “Mayor for the Day” at a school fundraiser and he was fulfilling his commitment with an earlier tour of Fire Station 1, the Police Department and a ride on the Lake Patrol boat.

Mayor Washam invited them to officially call the meeting to order. Reid and Tripp Tammaro called the meeting to order at 7:01PM.

2. DETERMINATION OF QUORUM

All commissioners were present for the meeting.

3. APPROVAL OF AGENDA

*Commissioner Miltich made a motion to approve the agenda as presented.
Commissioner Ross seconded the motion and it passed unanimously, 5-0.*

4. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

The Tammaro brothers led the pledge after a moment of silence was observed.

5. MAYOR/COMMISSIONERS/MANAGER REPORTS

Commissioner Bilodeau reported on the following:

- National Night Out will be held on Aug. 6th (6PM-8PM) at Bailey Road Park
- Robbins Park Master Plan update public comment session will be held on Aug. 6th (6:30PM-8:00PM) and an online survey is available through Aug. 22nd

Commissioner Ross reported on the following:

- Lake Norman Chamber Business Expo will be held on Oct. 10th (11AM-5PM) at the Huntersville, CPCC Campus

Commissioner Miltich reported on the following:

- Attended the CRTPO meeting on July 17th
- Attended the Chamber’s Focus Friday with Sen. Marcus and Rep. Clark
- Participated in the 2019 Big Day at the Lake event
- Attended the Newsmaker Breakfast on July 25th with Sheriff McFadden
- Attended the Smithville Community Coalition meeting on July 29th
- Held a Cornelius Conversation meeting on July 30th
- Attended the morning Connecting Cornelius event

Commissioner Naas reported on the following:

- Participated in a West Catawba corridor ride-a-long with Asst. Manager Tyler Beardsley and an engineer from Rhythm Engineering testing out the coordinated signal system
- CEOSC will host a teacher roundtable meeting on Aug. 8th @ 7PM and Aug. 13th @ 3PM

Manager Grant reported on the following:

- Reiterated the dates/times for National Night Out, Robbins Park Master Plan and the CEOSC teacher roundtable meetings
- Welcomed newly hired Police Officers Bradley Couturier, David Santos, Ian Casey and Levi Snellings

Mayor Washam reported on the following:

- Participated in the 2019 Big Day at the Lake event
- Attended the Newsmaker Breakfast on July 25th with Sheriff McFadden
- Attended a fundraiser for Jessica Boesmiller (CLFR wife) who is battling cancer
- Announced tickets sales for a fundraiser to help Heather Sapp (PD wife) who is battling cancer
- Met with US Congressman Ted Budd
- Held the morning Connecting Cornelius event at Harvey's
- Toured the fire and police departments with Reid and Tripp Tammaro for "Mayor for the Day" auction win

6. CITIZEN CONCERNS/COMMENTS

Scott Higgins – 22354 Market Street, stated that he was a stakeholder participant for the NC115 North Corridor Study and he supports the Alternative A option.

Bill Sykes – 20409 Staghome, expressed his concern with the proposed rezoning of Alexander Farms due to the traffic impact it will have to the overly congested corridor.

7. PRESENTATIONS

A. Cornelius-Lemley Fire and Rescue Recognitions

Mayor Washam recognized former Fire Chief Neal Smith for his 34 years of service with the Cornelius-Lemley Fire Department and for his leadership as Chief from July, 2015-July, 2019. He presented Chief Smith with a Certificate of Appreciation.

Mayor Washam introduced the newly appointed Fire Chief Guerry Barbee and said that the Board looked forward to working with him as chief for the next two years.

Chief Barbee introduced his new Fire Officers Kevin Fox, Andrew Bridges, Robert Amadeo and Tom Cichocki. Mayor Washam then administered the oath of office to Chief Barbee and the Fire Officers of 2019-2021.

8. PUBLIC HEARING

A. REZ 08-17 Alexander Farm

Mayor Washam called for a motion to open public hearing #1 on rezoning case REZ 08-17 Alexander Farm.

Commissioner Miltich made a motion to open the public hearing. Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.

Asst. Planning Director Aaron Tucker gave the staff presentation on the proposed rezoning of the Alexander Farm located at West Catawba/Westmoreland and gave an overview of the current zoning and land use. He outlined the different retail/commercial/residential (including age restricted residential) components being proposed along with building elevations. A Traffic Impact Analysis (TIA) will be completed before public hearing #2.

Mayor Washam invited the applicant to speak.

Attorney Susan Irvin, representing WIN Development, introduced Richard Bartlett with BHM Architects and Sean Paone with Cole, Jenest & Stone. Mr. Bartlett presented the proposed design theme that utilizes authentic materials and textures of the farm while creating contemporary structures. Mr. Paone outlined the conceptual site plan that will provide community activity with convenient quality including: an independent living community, age restricted residential, park area, food truck plaza, grocery store and gas station/convenience store area. Attorney Irvin stated that the development time frame will be approximately 3-4 years.

Mayor Washam stressed the importance of a future fire station and questioned if land would be designated within the proposed site plan. Deputy Manager Herron stated that there have been some discussions with the applicant regarding a new fire station location.

Commissioner Naas stated that he had concerns regarding the development timing as it relates to the upcoming road construction projects in the same area. Deputy Manager Herron explained the phasing schedule with the developer and NCDOT's schedule.

Commissioner Bilodeau expressed concerns with infrastructure for bikes and pedestrians, as well as connectivity concerns.

Commissioner Gilroy stated that he had concerns with the density and questioned the amount of land reserved for park area being large enough. PARC Director Troy Fitzsimmons outlined the park area location and its close proximity to property owned by the Town that is land locked but could be connected through a greenway.

Mayor Washam invited the public to speak and the following comments were made:

Elizabeth Carlson – 17915 Kings Point Drive, stated that she was opposed to the project if a gas station/convenience store was included.

Dick Douglass – 18333 The Commons Blvd., expressed his concerns with the buffer and connectivity.

Bill Morgan – 18120 John Robbins Lane, stated that he was in favor of the proposal but questioned if any sort of renewable energy components would be included.

Frances McKenna – 16718 Amberside Road East, stated that she is opposed to the project if it includes a gas station component.

Diane Barriecelle – 8241 Viewpoint Lane, expressed her concerns with the proposed connectivity and negative impact on traffic.

Lore Postman Schneider – 20405 Church Street, expressed her concerns with the over abundance of age restricted homes in the area and their limitations for sale in the future and after the Baby Boomer generation.

Wayne Smith – 18911 Cloverstone Circle, expressed his concerns with construction traffic and the impact it will have on West Catawba.

Commissioner Naas stated that he believed the public hearing was premature in the process and that a TIA should be available by the first hearing. Deputy Manager Herron explained that the additional public hearing was implemented to occur after the community meeting in an effort to give the public the opportunity to comment on the initial submittal. That information would then be used to go through the process of developing the TIA, looking at revisions and alternatives so that when the Planning Board reviews it will be a more acceptable product.

There being no further comments, Mayor Washam called for a motion to close public hearing #1.

Commissioner Miltich made a motion to close the public hearing. Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.

9. CONSIDER OF APPROVAL

A. NC115 North Corridor Feasibility Study

Deputy Manager Herron introduced Richard Odynski with WSP. Mr. Odynski presented the Hwy. 115 North Corridor Study located between Washam Potts Road and Potts Street. He outlined the study process and thanked those that were part of the stakeholders committee. Mr. Odynski identified key issues and highlighted the Alternative A: Three-Lane Section, Alternative B: Two-Way Pair and a combination of both A & B. He stated that the stakeholders committee support Alt. A, but would support Alt. B if combined with Alt. A.

Commissioner Bilodeau asked what the timing was for the signal at Hickory Street. Mr. Odynski stated that installing the signal at Hickory Street could be done independent of the Potts Street roundabout. Deputy Manager Herron stated that NCDOT is managing the project and has stated that there's a funding shortage;

therefore, the Town will be applying for discretionary funds to make up the difference. He reminded the Board that the full project between the roundabout and Hickory Street has not scored well in STI because a design plan and feasibility study did not exist. This study will increase the STI scoring.

Mayor Washam asked how the Hwy. 115 north project ties into the Hwy. 115 south project. Deputy Manager Herron stated that both sections are in the MTP (Metropolitan Transportation Plan) and the studies for both will increase their points in scoring. Both projects most likely will be too big to receive discretionary funds but it will help them with getting into the TIP (Transportation Improvement Plan).

Commissioner Naas asked if the betterment costs and road improvement costs have been broken out. Mr. Odynski stated not specifically into two different cost estimates. Manager Grant explained that NCDOT will cover the costs of the road construction and the replacement of existing sidewalks; however, if the Town desires to enhance the project “betterment costs” (i.e., additional width for a multiuse path/ROW) the Town would be responsible for the cost difference.

There being no further comments, Mayor Washam called for a motion on the study.

Commissioner Miltich made a motion to approve the NC115 North Corridor Feasibility Study as presented. Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.

B. Cornelius Library Endowment Committee Appointments

Manager Grant gave a quick overview of the bylaws regarding appointments and stated that Teresa Hawkins and Leah Shaw wish to be appointed to the Endowment Committee.

Commissioner Ross made a motion to approve the committee appointments of Teresa Hawkins and Leah Shaw. Commissioner Miltich seconded the motion and it passed unanimously, 5-0.

C. Historic Preservation Committee Appointments

Deputy Manager Herron gave an overview of the HPC appointments.

Commissioner Miltich made a motion to approve the appointments of Kyle Scharf, Walter Burgess and Cindi Ferguson. Commissioner Bilodeau seconded the motion and it passed unanimously, 5-0.

10. CONSENT AGENDA

- | | |
|--|----------------|
| A. <u>Approve Minutes – Closed Session (July 15th)</u> | (Approved 5-0) |
| B. <u>Approve Minutes – Regular Meeting (July 15th)</u> | (Approved 5-0) |
| C. <u>Annual Settlement of the Tax Collector and</u> | (Approved 5-0) |
| <u>Order of Collection for FY2020</u> | |

Manager Grant gave an overview of the Consent Agenda.

Commissioner Miltich made a motion to approve the Consent Agenda as presented. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

11. COMMISSIONER CONCERNS

A. Speeding Issues

Commissioner Miltich expressed his concerns with excessive vehicle speeds throughout town and encouraged everyone to slow down and be safe.

B. CPSM Police and Fire Study

Commissioner Gilroy stated that he believed CPSM is a capable vendor with good ideas and he is hopeful that the momentum will continue to build on actionable, tangible ideas around containment of costs going forward. Mayor Washam stated that he believes they are on the right track.

C. PARC Programming and Cain Center for the Arts

Commissioner Gilroy stated that the public perception is not clear on who is programming art related classes. Mayor Washam explained that in September he will appoint a task group to figure out the feasibility of merging the programs offered by both entities.

D. Interstate Signage

Commissioner Gilroy referenced a “Welcome to Huntersville” sign installed by NCDOT on I-77 and questioned where the “Welcome to Cornelius” sign was. Manager Grant stated that staff would check with NCDOT.

12. ADJOURNMENT

There being no further business to discuss, Commissioner Miltich made a motion to adjourn at 9:06PM. Commissioner Ross seconded the motion and it passed unanimously, 5-0.

Approved this 19th day of August, 2019.

ATTEST:

Lori A Harrell, Town Clerk

Woody Washam, Mayor