

**MINUTES OF THE MINT HILL PLANNING BOARD**  
**Town of Mint Hill, North Carolina**  
**June 18, 2007**

The Mint Hill Planning Board met in regular session Monday, June 18, 2007 at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

**ATTENDANCE**

Chairman: Tony Long  
Members: Jack Bryan, Roy Fielding and Jef Freeman  
ETJ Member: Tom Gatz  
Commissioner: Brenda McRae  
Manager: Brian Welch  
Senior Planner: Karen Dunn  
Planner: Dana Goins  
Deputy Clerk: Doris Miller  
Absent: Donnie Walters

**CALL TO ORDER**

Chairman Long called the meeting to order at 6:34 p.m., declared a quorum present and the meeting duly constituted to carry on business. Mr. Freeman offered the invocation.

**ORDER OF BUSINESS**

**Additions, Deletions or Arrangements of Agenda Items:** Chairman Long stated he had received a request from Town Manager Brian Welch requesting that Agenda Item #9. E. be moved to 9. A. Upon the motion of Mr. Bryan, seconded by Mr. Gatz and unanimously agreed, the agenda was rearranged to hear Item 9.E. first under New Business.

**Communications:** None.

**Approval of Minutes of Regular Meeting of May 21 and Called Meeting of May 24, 2007:** Upon the motion of Mr. Gatz, seconded by Mr. Bryan and unanimously agreed the minutes of the regular meeting of May 21 and the called meeting of May 24, 2007 were approved as presented.

**Reports and Committees, Members and Staff:** None.

**Old Business:** None.

**New Business**

**E. Report of Progress Made to Develop the Bridges at Mint Hill Filed by Childress Klein Properties, Inc., Property Located in the Northwest Quadrant of Lawyers Road and I-485 and Lawyers Road and Sunrise Drive as Required by Section 10.1006 of the Mint Hill Zoning Ordinance:**

Manager Welch gave the following report: He had met with Town and County Staffs, NCDOT, the Town Attorney and the developers regarding the Bridges at Mint Hill to help get this project started. There had been a tremendous amount of work done on this project, although there had not been significant amounts of dirt moved on this site. The developers had requested to be allowed to enter into a two-step process with the County primarily to get their grading permits, hopefully in the summer rather than postponing it. The Planning Board was being asked to determine whether sufficient progress had been made in the development to allow development to progress so that the grant order would not be recanted. He had provided a copy of a letter he had written to Mr. Dale Stewart with Land Design (copy in Managers file) stating that this two-step process had not been utilized in Mint Hill before but the County had used it for others. It did not violate any of the regulations of the County. The County Attorney stated in his letter (see file) that he felt confident in allowing the Town to do this. The two-step process would include, after a 21 to 28 day plan review, the issuance of their grading permit. Hopefully this would begin by the mid or end of July.

*Questions/concerns from the Board for Manager Welch and Mr. Chris Thomas, representing the developer, were: When would development actually start? Manager Welch said he felt as soon as they received their grading permit they would begin construction right away.*

*Concern was expressed about the traffic flow around the mall area with two travel lanes each and one turn lane at three different entrances, which did not seem a lot for a mall the size they were dealing with. All other malls in the county had three travel lanes and two turn lanes. Mr. Gatz would like an explanation of how this traffic pattern was determined and what the criteria was for developing it. If they were allowed to put it in and found out later it is not enough, they were stuck with it and would have to wait for DOT to come in and change things. Manager Welch said he had talked with Mr. Gatz about this before and thought it was a good idea to have the transportation consultants come out for a joint meeting between the Planning Board, Board of Commissioners and the transportation planners as well as Town, County and DOT Staffs along with the developers to talk about the transportation issues.*

*This was also a concern of Mr. Bryan. He wanted it to be right in the beginning.*

Mr. Randy Gottard with Kublins Transportation, stated their firm did the transportation study. This mall was on the right side of the road. Everywhere else this type development is on the left, i.e., Carolina Place. Everyone has to turn right off the interstate where the heavy volume comes from. NCDOT says the advantage of this cross section was with its being on the right side and they were all set up with dual left turns coming out of the mall to get them back to the interstate. They felt it would work better than Carolina Place. There would be a lot of opportunities to lead people off the interstate with free-flowing rights. They did not feel they would be creating another Hwy 51 or Pineville-Matthews Road.

*With Eastland Mall closing, their clientele would end up somewhere and they would not use the interstate to get there. They could come down Lawyers Road. The Harris Boulevard, Central Avenue, Independence area would come to the Bridges. Mr. Gatz said he would like to see the parameters that were used to come up with this plan. People living in this area do not use the interstate to go to downtown Charlotte to work, they used Lawyers Road.*

Mr. Gottard felt the highest percentage of traffic would still come off the interstate and all the design lanes were to accommodate that traffic. In the traffic study, the concept and the recommendations for lanes and for storage lanes were designed to accommodate this. There would also be a multi-lane round-about, which was the first one to that site as far as an access point. They would not get choked down in centralized intersections where you would have stopped traffic. NCDOT was looking at that concept again, but they were initially fine with it. This would accommodate a high volume of traffic with very little delay. They had talked with the County and NCDOT when they started this study and they were not guessing at distribution percentages and trip generations because they signed off on it step by step.

*Mr. Freeman said they had not seen any of the basic planning parameters, Staff probably had, but he felt it was a good idea for the Board to also know what the assumptions were for the splits coming off the interstate verses coming in from Lawyers Road. Lawyers was the main conduit coming into our Town and he just wanted to make sure it was not going to be choked off. The Town was trying to develop a Comprehensive Transportation Plan and this was a huge implication to that plan. It would help to know what the assumptions were as to how traffic was going to be feeding in.*

*Mr. Bryan said it was important to note that most of the questions were coming from people who live in the Town, not those coming to Mint Hill. This made a difference as to why questions came up.*

Mr. Gottard said people had a lot of trouble when you talked numbers. Sometimes ten cars was a huge difference for some people. No one has a firm grasp as to the difference between 37,000 and 3,700 cars.

Manager Welch said a meeting with the transportation people would be outside the agenda they were discussing. He would try to get that set up though.

*Mr. Fielding said there was a plan for all the other malls and somewhere they went amiss. He thought it would be good to see how they went wrong and how we could avoid it.*

Further discussion regarded the traffic patterns for a mall in Durham and the North Lake Mall in Mecklenburg County. The right-ins seemed to work for them.

*Mr. Freeman questioned the two-step process, had any of them been to the magnitude such as this? With all the environmental concerns the Town needed to make sure it covered all the bases. Did he understand correctly that they would have to implement their grading plans in 20 acre increments? Mr. Welch did not know, but the County had been questioned by Mr. Bailey (Deputy Town Manager/Planning Director) about this and the Attorney was watching to make sure we were not*

paving a new road here. They did not provide examples, but did say it had been done in other towns. They had spent multiple hours trying to make sure they would not end up in a court room. He felt they had done their due diligence on this. There were no promises we wouldn't, but what they were recommending was what they felt should be done. The 20 acre grading plan was one of the rules that was also being shifted. That requirement could be waived if they take into consideration the factors for SWIM buffers and silt controls, etc. and have a plan for that. What the Board needed to do was determine if they had made sufficient progress to get this project done and not revoke their permit.

**Upon the motion of Mr. Gatz, seconded by Mr. Bryan and unanimously agreed that a 12 month extension be granted as requested by the Bridges at Mint Hill, filed by Childress Klein Properties, Inc., for property located in the northwest quadrant of Lawyers Road and I-485 and Lawyers Road and Sunrise Drive as required by Section 10.1006 of the Mint Hill Zoning Ordinance being that substantial progress had been made in this project to go forward with the project.**

Further comments from Board members and Mr. Chris Thomas expressed his appreciation supporting this action. He felt they had made tremendous progress. The transportation element was one of the things that was in play at this time. Mecklenburg County was ready to review the civil plans based on the Towns concurrence that the plans were consistent with the 2005 zoning. This extension would allow them time to come back to the Board when they are ready to show them vertical development plans and other elements of their project. These would be important to review and make comments on as far as their Conditional Use Permits were concerned.

Mr. Freeman asked when Mr. Thomas foresaw starting the project. Mr. Thomas said they were projecting a Fall, 2009 opening for the project. This was predicated on the work they are doing with Mecklenburg County and the Town Staff to get their grading permit which they were in the process of doing. They had two additional national department stores committed to the project other than Belk. A regional theater chain headquartered in Charlotte had committed to a stadium style theater on this property and three or four theme restaurants (complimentary to Belk which you typically find around malls like South Park had also committed to this project. They were meeting with more interest than they had anticipated at this point. He felt the zoning was very well thought-out for that area. They had limitations concerning the size of the footprints that could be part of the project. They would have no super stores. It was to be an open-air lifestyle type shopping center (called a mall) which had upscale department and speciality stores which were not found in enclosed projects.

Mr. Gatz asked what other type businesses Mr. Thomas thought would want to come in around the mall. Mr. Thomas said there would be pressure to rezone other properties and the Town had done a excellent job in the past. He had talked with Mr. Bailey and Ms. Dunn about this. Looking at it objectively, probably they would need to make a small area land use plan or some type interchange land use plan for Lawyers and I-485 that would provide guidelines for this, when more utilities were available. That would be the governor of commercial growth at this time. He hoped it would not be endless retail, but a mix of office and professional uses. The Town was fortunate that it had large blocks of property in the hands of landowners who were patient people and somewhat visionary. He wanted to see the right thing happen.

Mr. Bryan did not hear Mr. Thomas mention a hotel, was this possible? Mr. Thomas said there was a business class hotel component of the project but they had not made any commitments. It was the type hotel which would be found appurtenant to a first class shopping center.

Mr. Freeman asked if the request was specifically for a 12 month extension. Ms. Dun said there was nothing that spoke to the extension time. Mr. Thomas said 12 months would be more than adequate which was what they had requested.

**A. Discussion and Decision on Major Subdivision #S07-21 Filed by M & S Development for Olde Stonegate, Phase II Preliminary Plat, 33 Acres Located off Wilgrove-Mint Hill Road, 40 Lots; Tax Parcels #137-081-01 and #137-082-01:** Ms. Dunn referenced information found in a memo to the Board dated June 12, 2007 written by John Hoard (copy in file) regarding a request for Preliminary Plat approval for #S07-21, Olde Stonegate Phase II (Conservation Subdivision), Preliminary Plan, filed by Insite Engineering & Surveying. The request was for 40 lots (32.62± acres), (Phase I & II total 119 lots, 90.37 acres) located off Wilgrove Mint Hill Road; Tax Parcel 137-082-01, 137-081-01. This included 23.10 acres of Common Open Space (25.5%) and 19.58 acres of environmentally sensitive (21.7 %) area.

Background was given in the report made by Staff which included approval of Sketch Plan #S06-7 on August 1, 2006. The Preliminary Subdivision approval for Phase I (57.85 acres) which was granted on September 19, 2006 and was presently under construction. The Sketch for Phase II (S07-10) was approved on June 4, 2007.

The subdivision was reviewed under the Conservation Subdivision standards found in Section 10.712 of the Zoning Ordinance (copy in file). The Preliminary Plans met these requirements and the proposed streets met the requirements for streets within a conservation development.

Mecklenburg County Land Use and Environmental Services Agency (LUESA) would review the Preliminary Plans for sedimentation and erosion control, storm water, flood, and road profiles. The developer would be responsible for submitting these plans to Mecklenburg County and providing a copy of the approved plans to the Town upon request. Bonds would need to be posted with the County for the improvements in the subdivision prior to submitting any Final Plans. Any off-site grading would require adjoining property owner permission.

Charlotte-Mecklenburg Utilities (CMUD) would review the Preliminary Plans for the water and sewer lines. The developer was responsible for submitting these plans to CMUD. If subdivision signs were to be constructed at the entrance, they were not to exceed 12 sq. ft. in area and remain outside the right-of-way. Signs were permitted as a separate process.

Staff recommended approval with eight corrections and conditions (see file). Ms. Dunn pointed out two points in Staff recommendation, numbers 5 and 7 which she would like to recommend in future subdivisions with stub streets. She suggested a temporary turn-around in lieu of the current standard stubbed street and that no earthwork would begin until the Planning Board had issued their final approval. There were several ways to handle these turn-arounds, i.e., hammerhead, which comes

to a “T” and an asymmetrical cul-de-sac, where it would make a loop. She had talked with Police Chief Brian Barnhardt and Street Maintenance Superintendent Dwayne Dorton regarding the safety issues of the barricaded stub streets. They were in agreement that it was a good idea for a turn-around, but cautioned that sometimes when cul-de-sacs are built the property owners thought it would never continue. She also recommended that a sign be posted stating this would be a future connection in addition to the turn-around. She had been working with Mecklenburg County to come up with a standard design for this. There would be 60 ft. that would stub to the property line but would not be built to the property line. When connectivity occurred, some towns continued with their design standards and maintained the circular portion of the road. The objective would be to provide emergency and service vehicles with a safer turn-around.

*Questions/comments from the Board for Ms. Dunn included: Would this have to be done within whatever right-of-way you would have available? If they could be flexible on the design and get an approval from LUESA as to what would work best, Ms. Dunn would want to see an extension of the right-of-way for setback purposes. If it’s temporarily on a plat you would have to go through the process of abandonment or having the easement go back to the property owner, etc., and it would be tedious to enforce. She would like to see it as a 90 ft. right-of-way or whatever was needed to get the preferred design. She had retrofitted a couple of the plans they would see that night and had used these in other jurisdictions.*

*From a property owner and developers view, the Town would be requesting a certain amount of real estate to accomplish this, which would have to be changed at some point in the future. What happened in a case when they no longer needed the turn-around and had to dole-out right-of-way that the property owners had relinquished. Ms. Dunn said they would not have relinquished anything because it had been on the plat from day one. It could be done through the process of having the next developer coming in to be bonded and retrofit or chip-up the bulb portion of it. They would put in curb and gutter and carry it on to the property line and the next developer would carry it on from there. Or, they could maintain the cul-de-sac bulb or whatever design chosen and continue with the road.*

*Mr. Freeman said another way to approach it would be to get an easement from the property owner to accommodate this. This would be much easier to relinquish it back and link it to a requirement for either the existing developer or future developer to retrofit the road back as a condition to relinquish the easement. Ms. Dunn said she would like the option of looking at each individual project and how likely it would be to continue on in a short amount of time or how many lots there would be at the end of it that would require additional turn-arounds. The simpler they could make it, the better off they would be and have it universally applicable, otherwise you had a lot of conditions that had to be looked at.*

*Mr. Gatz asked if they could leave a symmetrical cul-de-sac and use it as a traffic slowing device or round-about? He would not put an island in to begin with, it could be put in when they extended the street. Ms. Dunn said that was another design but Chief Barnhardt was not in favor of roundabouts and neither was Mr. Dorton. She felt they would need a minimum of 100 ft. to do this.*

Mr. Tony Gaffey with Insite Engineering, representing the applicant, had provided examples to Ms. Dunn of things he had used in South Carolina for a couple of projects that had the temporary easements and after the continuation of the roadway, it reverted back to the property owner.

Ms. Dunn referenced Number 7 in Staff comments stating she had found a disconnect from when the Planning Board approves the plat and when it went to the County for changes to be made. Generally, Town approval was contingent upon all the reviews from the County. She would like the Planning Board to see it after all the approvals and thought it was appropriate for the Board to see any changes that had been made. If there were no changes, it would just be a communication.

*Mr. Bryan asked if this affected Lots 92 and 93 and what would happen to those two homeowners until it went forward? This developer would probably be long-gone and there would be another one for the balance of the property. He would have a lot of questions if he were one of those homeowners, i.e., how it would look, work and what would happen when and if these parcels were sold to a developer. Ms. Dunn said they were affected. They would see the turn-around which may or may not look temporary, but it would be on the original site plan as an easement, i.e., to be turned back to the property owner when the connection was made.*

*Mr. Freeman was uncomfortable in including this as a condition in this specific application because it did not appear to be fully “baked” yet. He thought Staff should come forward for guidance with what Ms. Dunn thought would be applicable in situations like this and let the Board “weigh-in” on that, then it could be used for all subdivisions going forward.*

*Chairman Long liked the idea of the circle and didn’t know why the Police Chief did not like it.*

Ms. Dunn said she saw it as something that should be considered because it was a safety issue and it had been verified by the Police and Public Works that they would like to have a turn around. In this case, she asked if the Board would allow Staff and the developer to do something on a voluntary basis that could be approved by Mecklenburg County and the developer?

*Mr. Freeman said if the developer was willing to do this, he had no problem with it. Conceptually, it made sense, it felt right but was ill-defined and he would be uncomfortable implying it as an absolute until more work was done on it.*

*Mr. Gatz said he would be willing to let Planning Staff and Insite work on it to come up with something in this situation, which may or may not come to be a standard.*

Mr. Tony Gaffey addressed the Board said he had worked with Ms. Dunn in the past and they had always tried to figure out the right thing to do. He did not mind being a “guinea pig,” they could work with this. Because of the lots at the end, a developers concern was that if a 90 ft. right-of-way was imposed where they had a stub street and then he had to put his setbacks against it, would it ruin the two lots? They would be abnormal to what was going on. He thought they could work something out to be an example of where Staff wanted to go with this. They had been given a lot of flexibility in South Carolina in this regard. They were more worried about the second generation

ownership getting “stung.” The first owner would get a copy of the record map and it was very clear. That was why they had come up with the idea of posting a physical sign to let others know the road could be continued in the future. This may preclude some heartache in the future. He commented on Ms. Dunn’s position that it should come back in front of the Board and suggested a twist on that. Right now to come in front of the Planning Board and resubmit basic road profiles, when they looked at the check list it was not a complete set of plans, and they submitted it to CMUD. In lieu of getting comments from the Board and then coming back, it would time delay people, it was tough to deal contractually, they might change the requirement to at least one submission with comments from the County before it came to Staff would have the opportunity to address the comments and then when the plans came to them (they were in their second submission to the County) they were comfortable with what was going on, this could hold them up until they addressed a minor comment for another month or two, that would put a time constraint on a lot of developers. Most of the comments they had before could be easily addressed by Staff, it was not major stuff. If it were major, the Board probably would not approve the subdivision. Hopefully they would consider what that would mean to the development of a piece of property. If Staff had significant concern, then they should bring it to the Board. He felt this should be taken into consideration as they decided to move forward and change their process.

Ms. Dunn thought Mr. Gaffey had made a good point if it was a minor change, Staff could handle it. They probably needed to be on the same time line submittal as the County in that theirs was a little more extensive than the Mint Hills when they are doing water, sewer and road profiles, etc.

Mr. Gaffey said he thought everybody had an opportunity at Sketch Plan stage to offer comments, even though it was not super detailed. From the developers standpoint it was super huge because the cost, when you have a horizontal lay-out, was really not that great. When you take the horizontal and made it all work, your cost goes up probably 400%. He felt most of the development community appreciated a Sketch Plan process that would mean more than being able to change their minds altogether. They needed to uphold the Sketch Plan and not deviate it unless there was a reason such as topography, etc.

*Mr. Freeman said his concern was not in the engineering details but the physical layout changes and/or the vertical component of a development changes from the time the Board saw it until it was actually constructed. These were the things he would like to know about. If it was something discovered out in the field, engineering wise that forced them to deviate this was something that would have to come back to the Board. Anything else, detail or engineering-wise, he was comfortable with letting Staff handle.*

*Mr. Gatz said he had never seen anything about sidewalk easement recommendations. The Sketch Plan indicated a two foot sidewalk easement, what was the issue there? Mr. Gaffey said there were two power poles and they would either go inside or around them with a sidewalk. They chose, for safety reasons, to go onto the persons property, in the first phase of the project, not this one. Because the landowner still lived on the out parcel. They had gone through this with them and it went around the power pole.*

*What was the reason they did not want these two cul-de-sacs to connect, was it a land characteristic?* Mr. Gaffey said there was a stream coming across it with a lot of topography issues. From a wetland permit standpoint there were two crossings already and they had hit the limit of what they could do environmentally. They had two different owners and each owner was granted a Nationwide 14 or Nationwide Road Crossing Permit. They got up to 150 ft. This was changing. This was important to keep this in place because the Nationwides were being exchanged out for something new and there were a new set of regional conditions. They did not want to go there.

*Mr. Bryan expressed his concern about traffic on Wilgrove-Mint Hill Road, but did not have any answers.* Mr. Gaffey said they had dedicated a 35 ft. right-of-way, or more and ultimately he thought the Towns plan was for it to be a three lane through-road, as soon as they could get the right-of-way. They were required to do two left turn lanes, one into each phase and this was what a TIA would have required if they had done one. Ms. Dunn said a TIA would trigger a left turn lane and the applicant was going to be doing it anyway so she did not feel the need for one.

**Upon the motion of Mr. Freeman, seconded by Mr. Gatz and unanimously approved Major Subdivision #S07-21 filed by M & S Development for Olde Stonegate, Phase II Preliminary Plat for 33 acres located off Wilgrove-Mint Hill Road, 40 lots; Tax Parcels #137-081-01 and #137-082-01 inclusive of Staff recommendations with corrections and conditions as modified by the Board as follows: (1) Retain as many existing trees as possible. (2) The applicant is required to submit an easement form to obtain a sidewalk easement, as noted on page 3, and return to Staff. (3) Street tree location and information regarding size, species etc. shall be provided on the revised Preliminary Plan. (4) The 25 ft. landscaped buffer requirements shall be provided on the revised Preliminary including sizing and species to be used and a note regarding the responsibility of the upkeep. (5) Staff is recommending a temporary turn-around in lieu of the current standard for stubbed streets. Staff is currently reviewing options with Mecklenburg County and Mint Hill public safety officials. Staff is currently working with the developer and they have committed to work with Town Staff to develop a workable application for this subdivision. (6) The left turn lane details and other necessary improvements for Wilgrove-Mint Hill Road shall be coordinated with Mecklenburg County LUESA and NCDOT. (7) Staff recommends final review and approval of the Preliminary Plan by the Planning Staff after all other approvals have been granted. No grading or earthwork shall begin until the Planning Staff or Planning Board has issued the final approval. A zoning permit hold shall be placed on the property until final approval. Staff shall use its professional judgment to determine what applications should be resubmitted to the Planning Board. (8) Preliminary Plan approval is contingent upon review and approval of engineering plans from Mecklenburg County Land Use and Environmental Services Agency, Charlotte-Mecklenburg Utilities Department and North Carolina Department of Transportation.**

During discussion of the motion, Mr. Gaffey said they could not get NCDOT approval until the Town approved it. The way he understood Ms. Dunn's recommendation regarding the approval status, they would have to have NCDOT approval before the Town approved it and they could not comply with that because NCDOT would not give approval until the County and Town (Mayor Biggers) had approved it. They would work with Staff in anyway possible.

*Mr. Freeman said the intent of the modifications to the original language was to give Staff flexibility to say, things have changed so significantly that they needed to give it back to the Board. Otherwise, they would do whatever they had done otherwise and the developer would get what they needed to do to get their approvals at NCDOT. He thought that was the spirit behind what they were trying to get to. Mr. Gaffey said he agreed with that, but he did not want them to pass something that could not happen. Ms. Dunn said the intent was, as Mr. Freeman and Staff had laid out, they would come before the Board and it would be approved contingent upon all the agencies having given their approvals.*

Ms. Dunn asked if they could get their grading permit before LUESA had reviewed and approved it? Mr. Gaffey said Mecklenburg County issued the grading permits and they could not get them without prior approval from the Town.

Ms. Dunn said she would bring optional wording in general terms to the Board that would be in their “tool box” to use, depending upon what was presented in the future regarding the wording for the sign(s) to be used on the turn-around to be put on the Final Plat.

**B. Discussion and Decision on Major Subdivision #S07-22 Filed by McAlpine Group, LLC, for Ashe Plantation Phase Five, 67 Acres Located Off Fairview Road/Ashe Glen Drive; 57 Lots; Tax Parcels #197-162-09; #197-163-99; #197-173-19 & Union County #08306001:** Ms. Dunn referenced a memo written by John Hoard on June 8, 2007 (copy in file) while presenting a request filed by McAlpine Group, LLC for Ashe Property. The 67 acre tract located off Fairview Road and Ashe Glen Drive partially in Mecklenburg and Union Counties, was proposed to be subdivided into 57 lots, Mecklenburg County Tax Parcels #197-162-09; #197-163-99; #197-173-19 and Union County Tax Parcels #08306001.

The Preliminary Plans indicated the lots would be served with community water and sewer provided by Aqua Carolina; therefore, the Mint Hill Zoning Ordinance permitted a minimum 30,000 sq. ft. lot standards. The Preliminary Plans appeared to meet these requirements. The interior streets met the standards for the Local Residential Street Cross Sections. She had received, just that day, a willingness to serve letter for the water and sewer.

LUESA would review the Preliminary Plans for sedimentation and erosion control, storm water, flood and road profiles. The developer was responsible for submitting these plans to Mecklenburg County and providing a copy of the approved plans to the Town upon request. Bonds would need to be posted with the County for the improvements in the subdivision.

Staff had met with Mr. Bill Rice, representing the applicant, regarding the extension of this project into Union County. As the project came forward, the intent was that the developer would voluntarily annex Phase 5 into Mint Hill. However, in verifying this Ms. Dunn had found that Mint Hill and the Town of Fairview have an annexation agreement that would prevent that from happening without there being exceptions given by both Fairview and Mint Hill. For now, that was being put to the side because Mr. Rice needed to go forward with this project. He had submitted and had approved a Sketch Plan to Union County. The Isaacs Group submitted the Preliminary Plat to Union County.

One of the favorable aspects of this project was that Union County standards were less restrictive than the Town of Mint Hill and this project had been designed to Mint Hill standards. Whatever approval that occurred in Union County would meet our standards. They had the same situation with a stub street as found in the previous plat. She had talked with Mr. Brent Cowan, with the Isaacs Group, and thought one of the lots could be backed up and they could attain the turn-around. She was particularly concerned with this project because there was only one-way into it on Fairview Road. There were a significant number of lots, basically on a dead-end street, with a flood plain to cross. She felt the same language should be used in working out a functional turn-around for safety vehicles as that used in Major Subdivision #S07-21. She said when you have subdivisions which cross county lines you have issues with police, fire, voting, schools, taxes, etc.

Staff recommended approval with five corrections and conditions (see memo previously referenced) plus the added language regarding turn-arounds used in Major Subdivision #S07-21.

*Questions/concerns expressed by the Board* included: *Did they have a waste lift station or something. Who were they being serviced by?* Mr. Rice said it was Aqua North Carolina, better known as Heater Utilities. They had been servicing the Ashe Plantation development for years. They were originally sized and set up to serve this property as a future phase of Ashe Plantation. They were just late coming on line and had more taps available than they were using.

*Was the existing barricade just beyond Bristle Cone Court off Ashley Drive?* Mr. Rice said it was. The road had not been built all the way to the property line because of the creek so the barricade was a little further up the hill and would be removed when the new street was installed.

Discussion followed with Mr. Bryan, Mr. Rice and Ms. Dunn concerning the school system and how decisions were made as to where the children would go to school. Thirty of the 57 lots were either partially or wholly within Union County. Mr. Rice said they had inquired with Union County about the process and they had told him not to bring it to them, it originated in Mecklenburg County, take it to them. They had talked about doing voluntary annexation and letting the entire project go to Mint Hill until Ms. Dunn discovered they did not have the ability to do that because of the agreement with Fairview which anticipated this situation through a provision that said if a project that crossed the line, then one municipality or the other could request a change. It sounded as if the people on the other side of the line thought they had relinquished it to Mint Hill already. Hopefully it could be done and let it all end up in Mint Hill. If they have to submit it to Union County, it would be August before they could hear it. They were designing to Mint Hill's higher standards. Some children would go to Union County and others to Mecklenburg County schools. Fairview had pointed out to them it was not in their ETJ and they didn't want to see it. Union County would have to see it.

Ms. Dunn said annexation would take care of police, fire and garbage but not schools or voting. They could vote municipally for Mint Hill, but not Mecklenburg County. She thought they would pay Union County Taxes but did not know to what degree there were agreements between the counties for their Board of Education. She thought there were agreements for police. Union County did not have an ETJ.

Discussion followed regarding the roads: *Chairman Long asked if there was a left turn lane, going out of Town into Ashe Plantation. He could see major issues without one with traffic remaining at 55 MPH in that area.* Ms. Dunn said this would be a part of the design with this subdivision. She used the maps to point out the improvements. NCDOT was already maintaining the streets in Ashe Plantation and they would have to go through an abandonment process to turn them over to Mint Hill and they do not usually do that.

*Mr. Bryan pointed out that they were proceeding as though there were no issues with Union County. Was that true?* Ms. Dunn said they could approve only the portion of the plat that was in Mecklenburg County. It was not unreasonable to have it contingent upon Union Counties approval since it was so inter-related. She did not foresee it being an issue.

Mr. Pat Quinn with the Isaacs Group asked if this would be an approval for the entire project and if it would be contingent upon what happened with Union County, if it was annexed or if it remained in Union County. Ms. Dunn said she was going forward that this was not going to be annexed. They crossed over the line several times and somehow this had to be approved in order to get from one point to another.

*Mr. Gatz said the Town we would only approve what was in its jurisdiction.* Union County could come in and make them do other things. Ms. Dunn said that was right.

Mr. Fielding did not see a problem with approving the plan as presented to the Board and if they changed anything in Union County, it was not their decision.

**Upon the motion of Mr. Freeman seconded by Mr Fielding and unanimously agreed that Major Subdivision #S07-22 filed by McAlpine Group, LLC, for Ashe Plantation Phase Five, 67 acres located off Fairview Road/Ashe Glen Drive; 57 lots; Tax Parcels #197-162-09; #197-163-99; #197-173-19 & Union County #08306001 be approved with the following Staff recommendations: (1) Retain as many existing trees as possible. (2) A subdivision name shall be submitted to Mecklenburg County Address Department for approval and updated on all plans. (3) Mint Hill's approval is contingent upon engineering approval from Mecklenburg County Land Use and Environmental Services Agency and NCDOT. (4) Private sewer and water infrastructure plans shall be designed to CMUD's standards and will be reviewed by them as a courtesy to the Town. (5) Staff is recommending a temporary turn-around in lieu of the current standard for stubbed streets. Staff is currently reviewing options with Mecklenburg County and Mint Hill public safety officials. Staff is currently working with the developer and they have committed to work with Town Staff to develop a workable application for this subdivision. (6) Staff recommends final review and approval of the Preliminary Plan by the Planning Staff after all other approvals have been granted. No grading or earthwork shall begin until the Planning Staff or Planning Board has issued the final approval. A zoning permit hold shall be placed on the property until final approval. Staff shall use its professional judgment to determine what applications should be resubmitted to the Planning Board.**

**C. Discussion and Decision on Request for Subdivision Entrance Sign Approval, Filed by Insite Engineering & Surveying for The Oaks at Oxfordshire, Located on Crownhill Drive:**

Ms. Dunn gave background of a text amendment to Article 4, Section 4.19 which was approved on January 11, 2007 allowing subdivision monuments based on several conditions (see memo dated June 18, 2007 to Board from Ms. Dunn in file). Staff had reviewed the NCDOT policy on street and driveway access to North Carolina highways and the NC Administrative Code 19A NCAC 2E.0404-Highway Obstructions Interfering with Traffic Maintenance. The existing structure located in the median of Crown Hill Drive may not be in compliance with NCDOT minimum accepted standards and Staff felt this should be studied further by the Town Attorney prior to approval by the Board. She provided pictures of the site (see file). Ms. Dunn had experienced these type monuments in the past in another county that did not have municipal road maintenance. They had NCDOT road maintenance and they did not accept roads that have monuments such as this. She asked the Board to defer decision on this item until Staff could further review the request. She had submitted a copy of street and driveway access to N. C. highways. There were standards she felt needed to be further reviewed as well as the code which concerned obstructions interfering with traffic maintenance.

Mr. Tony Gaffey said they did not have any problems deferring it. He gave background information saying they were second generation of full staff with Lennar and NCDOT. He thought the first construction manager with Lennar had talked to the NCDOT people thinking it was their right-of-way and they had come to an agreement they could place the monument there. Typically with an NCDOT road at the entrance of a subdivision, if you wanted to put in pavers or anything abnormal to an NCDOT standard, you excluded it from the right-of-way. You would come in and have right-of-way and a strip of common open space and then more right-of-way. For more than eight or nine months, when the text amendment was going through, they had already brought this up in working with Mr. John Hoard on Town Staff and they were held up. What he saw as the biggest issue was that the Town was struggling with, since this was already recorded in Phase I of the subdivision, now it was recorded in the Mint Hill right-of-way. He asked what the abandonment process was to get this monument out of the right-of-way. They had not been able to find out what the process was. He did not think it was a sight distance hazard or anything, but they were looking for a solution that would be acceptable to convey this monument to the Homeowners Association (HOA) without taking it out of the public right-of-way. They thought it could be done with some type legal agreement between the Town and the HOA. They had gone through this and said the monument was okay, but they were back to the right-of-way issue. If they couldn't resolve the right-of-way issue there was no reason to consider the other components of safety, etc.

*Mr. Freeman asked if they could quick claim it?* Ms. Dunn said she thought there were cross sections where you could have medians owned by HOA's these were not going to have any kind of safety problem. She appreciated the history, but the history she had reviewed thus far concerned the maintenance. That was why they needed to be put in HOA's. The maintenance could be covered simply with a note on the plat or a requirement that any median would be maintained by the HOA. When you had a structure this size, located either on common open space or not, you would be on a Mint Hill road and when you round the corner and the vehicle hit the monument, their findings, based on the text amendment on the front cover, said it should not be visually overbearing or

aesthetically incompatible with surrounding development or character, it shall be complementary in size, scale and materials to adjacent signage and monuments, and it shall not impede the safe movement of vehicular and pedestrian traffic in the vicinity. This was where she went back to the other documents and needed to talk with the attorney about this.

**Upon the motion of Mr. Gatz, seconded by Mr. Freeman and unanimously agreed that a decision on a request for subdivision entrance sign approval, filed by Insite Engineering & Surveying for The Oaks at Oxfordshire, located on Crownhill Drive be deferred until further investigation by Staff could be completed.**

**D. Discussion and Recommendation for Rezoning Request #ZC07-6 Filed by Mike Raible/Charlotte Mecklenburg Schools For Property Located at 13000, 12208 and 12100 Albemarle and 10323 Truelight Church Roads From I-G(CUD) (General Industrial Conditional Use Permit) and R (Residential) to I (Institutional); Tax Parcels #137-152-01pt; #137-311-10; #137-311-55; #137-311-02; #137-141-11pt; and #137-141-14pt:** Miss Goins presented a request for rezoning (File #ZC07-6) filed by Mr. Mike Raible/Charlotte Mecklenburg Schools for property located at 13000, 12208 and 12100 Albemarle and 10323 Truelight Church Roads from I-G(CUD) (General Industrial Conditional Use Permit) and R (Residential) to I (Institutional); Tax Parcels #137-152-01pt; #137-311-10; #137-311-55; #137-311-02; #137-141-11pt; and #137-141-14pt (see memo dated June 5, 2007 in file). The purpose of this application was to accommodate a proposed 260,000 sq. ft. high school with associated athletic fields and parking.

I, Institutional zoning was intended to accommodate mid and large sized public, semipublic and institutional uses which have a substantial land use impact or traffic generation potential. It is not intended for the small institutional uses customarily found within residential areas. Because of potential adverse impacts, all institutional uses shall require site plan approval by the Board of Commissioners.

The existing surrounding uses included: North and South, used as residential and vacant, zoned R (Residential) & I-G(CUD) (General Industrial Conditional Use District); East, vacant, zoned I-G(CUD); and West, residential and vacant, zoned R.

Staff offered a favorable recommendation with the condition that the Land Use Map be changed to reflect the desired use. Currently, it designates this area as Light Industrial, as requested at the time of inception of the Clear Creek Business Park. This current label did not correspond with the requested zoning. The Table of Permitted Uses, Section 5.4 indicated all uses permitted in the I, Institutional district required a Special Use Permit that would allow for greater review of the project by the Board of Commissioners and Planning Board, particularly with regards to the layout and design of the proposal.

*Questions/concerns expressed by the Board were: Chairman Long stated Miss Goins had referenced the Land Use Plan (Plan) from 2000 which they had spent a lot of time on to have a commercial revenue generating piece of property in the Town. He had citizens call him and while he did not have any objections to a school, it concerned him that they were taking 31% of this commercial piece of property and suddenly it would not be a revenue producing tax base for the Town. Money*

*and hours had been spent on this Plan for direction and now they were going to chunk it. As a resident and business owner in Mint Hill, he objected to the way it was being handled.*

*Mr. Gatz stated he had been asked this same thing and he had answered it from the standpoint of when they wrote the Plan they did not anticipate a mall going in, but there was a lot of revenue to be generated from it. On the plus side, it probably more than off-set what was happening with this property.*

Mr. Russell Ashe, representing the applicant, said in looking at the Land Use Plan it appeared that it was about 90% residential. If the plan did not anticipate a lot of space to do anything but residential, the property would have to be rezoned. They would not necessarily have to take it from the I that Chairman Long was concerned about.

*Chairman Long said that was his point. He had lived in Mint Hill all his life and owned property adjacent to this and felt he was suddenly being burdened because the zoning was, what he considered, down-zoned. He was involved in these meetings and this was the discussion of the citizens that, to Mr. Ashe's point, this was a residential area and then you rezone one piece commercial and now they were going to get rid of 31% of the property. He felt they needed schools, but this was the edge of the county, where were the students going to come from? The issue was that Mint Hill was predominantly residential and based on conversations with citizens who had recently contacted him, they were not aware that the zoning was going to be changed. There were no comments at the public hearing. He felt it was a poor choice for the future because the tax rates were going to continue to climb as they saw the changes.*

Mr. Ashe could not address the student assignment plan because it had not been finalized and as far as the exact nature of the boundary for the school district that would have to be part of the process once everything got lined up for the school for their normal redistricting process which was fairly involved. His group was not specifically involved with that.

*Further discussion from the Board included such things as funding of schools, a complete build-out, a common athletic field and utilizing the entire space (if all the facilities were not put in, could the layout be changed so that some of the property that was being acquired by CMS could be relinquished back for potentially going back into the tax roll). If there was a positive vote in November, when did they anticipate construction? If this were not approved for rezoning, was there a "Plan B" as far as sites?*

Mr. Tony Anseldo with Mecklenburg Schools, said he could not specifically address what would happen with the bonds. This was one of two high schools in the proposed next bond issue and then it would be up to the voters. Their priority was in the first 200 million. When they take it to plan review, the only question in front of them was how many seats they would need. They were still talking about a track and football field, everything at every school, except the seats. There would not be that much land involved and wouldn't change the layout. Construction would begin in about 30 months if bonds were approved in November. The project would bid in March, 2008 and the school would be ready somewhere around the beginning of 2010. If the bonds did not pass, it would be a political question as to how they would be funded. They did not have a second plan if this was

not rezoned. They had looked as secondary sites, but they had been taken off the “burner” for a long time. They would have to start from ground zero from a contract negotiation standpoint. The contract CMS had was such that they would not close on the property unless they had a guarantee of the zoning.

**Upon the motion of Mr. Freeman, seconded by Mr. Bryan that a favorable recommendation be made to the Board of Commissioners regarding Rezoning Request #ZC07-6 filed by Mike Raible/Charlotte Mecklenburg Schools for property located at 13000, 12208 and 12100 Albemarle and 10323 Truelight Church Roads from I-G(CUD) (General Industrial Conditional Use Permit) and R (Residential) to I (Institutional); Tax Parcels #137-152-01pt; #137-311-10; #137-311-55; #137-311-02; #137-141-11pt; and #137-141-14pt specifically including a copy of the minutes of this meeting (in draft form) containing the concerns relative to the tax base so the Board of Commissioners will have this information for their deliberations before they make their decision.** The vote was as follows: Agreed, Jack Bryan, Roy Fielding, Jef Freeman and Tom Gatz; Disagreed, Chairman Long

**F. Discussion of Sample (Marvin, N. C.) Tree Ordinance:** Ms. Dunn said she was willing to defer this item until next month but she and Miss Goins were available to answer questions. She had just learned the Town had a grant to write a tree ordinance

Miss Goins said they had not used any of the grant money for this and had a deadline of October, 2007 to spend the money. When asked if they still had a consultant she said they had not been heard from recently. Ms. Dunn said Staff had decided to move forward internally to see if they could come up with an ordinance on their own.

Mr. Gatz said he thought Marvin’s ordinance was a good plan. He thought it would be good to have comments from Marvin, since they had been using the ordinance a couple of years. They had an 8 ft. planting strip which was what someone from Mecklenburg County had told the Town we needed if we wanted trees to grow to any expectations. There were penalties for infractions. He questioned if it applied to individual homeowners. Mr. Gatz felt they should start with this ordinance and go forward with it.

Ms. Dunn said she had been the enforcer of this ordinance when she worked in Marvin. She thought it would have to be “tweaked” for Mint Hill standards since it was based on the zoning of Marvin. They had 285 ft. setbacks from the road for their subdivisions. It applied for anything greater than five acres and if the lot was established prior to the adopted date there were also exemptions for that. It was meant to preserve existing trees and to replenish the canopy. The tree save area was based on the amount of trees currently on the property and gave incentives for saving trees. It involved site walks and a review by a consulting arborist. The fee was channeled back to the developer.

Mr. Freeman and Chairman Long agreed with Mr. Gatz that the Board should ask Staff to go forward with putting this ordinance into a format that would work for Mint Hill.

Ms. Dunn said she would like to have a workshop meeting at a point where she could go over the plan with them and see what they liked and did not like about it. She asked the Board to e-mail their

comments to her so she could get a feel for the direction they wanted her to go with this. The interesting aspect in this to consider in their zoning were tree preservation areas which would require probably more substantial buffer areas from current roads.

Mr. Bryan asked if there were any stipulations in the grant that would allow them to do what they were talking about doing. Miss Goins said they did not have to spend the money, because it was a 50-50 match. They could not use Staff working hours in the grant. If this was something Staff would handle, then they would not use the grant money. When she wrote the grant it was mainly for a consultant to write a tree ordinance. There was a small part (possibly \$150) that would include some Planning Board members or Staff being a part of workshops.

Ms. Dunn stated the Town was in desperate need to update the Land Use Plan. Staff had requested this in the budget this year. A teacher (with a Masters Degree in forestry) at Independence High School had been her consulting arborist in the past and she would like to consult with him to see if he would be available to work with the Town in this. His work would apply to this grant.

Mr. Freeman asked if Staff had the time to “plug” this into a UDO format. If not, he recommended they take the document to a consultant and get them to put it into UDO format, not creating the white paper. They could save the Town money by doing this if the Staff did not have the time. He thought they should use the funds they had available.

Ms. Dunn said she felt they could have a combination of the two. It was something that interested Miss Goins and she (Ms. Dunn) had the past experience implementing it.

**Upon the motion of Mr. Freeman, seconded by Mr. Fielding and unanimously agreed, that Staff be responsible for taking the white paper copy of Village of Marvin Tree Ordinance and implementing it into a UDO format and bring it back to the Planning Board for review in August, 2007.**

**Upon the motion of Mr. Freeman, seconded by Mr. Fielding and unanimously agreed, that a recommendation be made to the Board of Commissioners to revisit and update the Land Use Plan.**

**Other Business:**

Mr. Fielding reported the transportation survey was on line and asked that it put out to everyone they knew and ask everyone to fill them out and get them back in.

**Adjournment:** There being no further business to come before the Board and upon the motion of Mr. Gatz, seconded by Mr. Fielding and unanimously agreed, Chairman Long adjourned the meeting at 8:44 p.m.