

## ***IREDELL COUNTY PLANNING BOARD***

The Iredell County Planning Board met on Wednesday, **August 2, 2006** at 7:00 p.m. in the Commissioners Meeting Room of the Iredell County Government Center (Old Courthouse) at 200 S. Center Street in Statesville, NC.

### **MEMBERS PRESENT**

Eric Fields, Chairman  
Dr. Jackie Grigg, Vice-Chairman  
Anita Johnson  
Jeff McNeely  
Harold Pruitt  
Franklin Rash  
Jerry Santoni  
Thomas E. Stephens  
Alan Williams

### **STAFF PRESENT**

Richard McHargue  
Steve Warren  
Lynn Niblock  
Alaina Dillard  
Rebecca Harper  
Mark Selquist

### **MEMBERS ABSENT**

Kristi Pfeufer  
Harry Tsumas, Jr.

At this time, Chairman Fields called the meeting to order.

**MINUTES:** Dr. Grigg made a motion to approve the 7/5/06 meeting minutes. Mr. Pruitt seconded said motion and all agreed. **VOTES: 8-0.** *Ms. Johnson was absent during this vote.*

**REZONING REQUEST; RANDY & GLORIA HINSON PROPERTY, CASE NO. 0608-1 & AMEND THE BRAWLEY PENINSULA SMALL AREA PLAN:** Mr. McHargue presented the staff report:

<b><u>OWNER /APPLICANT:</u></b> Randy & Gloria Hinson	<b><u>AGENT:</u></b> Clifton Homesley
424 Beaten Path Road	330 South Main St.
Mooresville, NC 28117	Mooresville, NC 28117
(704)664-6242	(704)664-2162

**LOCATION:** 1400 Brawley School Road in Mooresville, NC; more specifically identified as PIN# 4626-94-1510.

**Directions:** West on Brawley School Road from Mooresville; property on right at McKendree Road intersection.

- **REQUESTED ACTIONS:** 1) Amend the Brawley School Road Small Area Plan; 2) Rezone subject parcel from RA, Residential Agricultural to RO, Residential Office.

**PROPOSED USE:** Any and all RO uses.

**SIZE:** 1.8 acres.

**EXISTING LAND USE:** Residential w/contractor's office.

**SURROUNDING LAND USE:** Residential, some commercial further south on Brawley School.

**WATERSHED REGULATIONS:** The subject parcel is located within the WSIV Critical Area.

**TRAFFIC:** This section of Brawley School Road had an average of 12,000 vehicles per day in 2004; according to the Iredell County Thoroughfare Plan, this section of Brawley School Road has a carrying capacity of 9,000 vehicles per day.

**ZONING HISTORY:** The subject parcel has been zoned RA since countywide zoning took effect in 1990.

STAFF COMMENTS: The applicant is requesting rezoning because, due to increasing development and traffic along Brawley School Road, he feels the property will be better suited to future office usage rather than purely residential. However, this request is not compatible with the Brawley School Road Area Plan; the Plan calls for Residential development south of the Blume & Stutts Road areas. The Plan envisioned that the Brawley School corridor should remain with a resort-residential feel for the majority of its southern end, thereby

reducing opportunities for strip commercial development along the full length of the corridor. This factor was noted even though it was known that road widening would occur in the future. Specifically, the Plan's goal for transportation is to "Promote a thoroughfare design that safely and efficiently moves people into and out of the Brawley School Road Peninsula while controlling local land-use activities and providing for basic recreation and pedestrian opportunities." Additionally, the Plan's goal for future land-use decisions is "To maintain Brawley School Road's primarily residential character and to accommodate neighborhood-oriented businesses at strategic and well-planned locations along the corridor." Such locations were identified as being further northeast in the Blume and Stutts Road areas; since the Plan's adoption however, the County amended it to include a "Low Intensity Office" node just south of McKendree Road and some subsequent rezoning occurred here in 2004. This was a limited area and was not envisioned to be a continued pattern outside that area. For all the foregoing reasons, staff feels that continued consideration of piecemeal rezonings along the Brawley School Road would defeat the residential objectives of the Land Use Plan in this area. In short, this portion of the corridor was not envisioned to transition into a strip-commercial area. Staff therefore recommends against this request.

Mr. Pruitt asked if the applicant had stated what RO use is planned for the property and Mr. McHargue stated the applicant was urged to submit a site plan but there is no proposed use and no site plan was submitted.

Cliff Homsley is resenting the property owners Randy and Gloria Hinson. Mr. Homsley stated that he has met with the Department of Transportation and there are plans to put a stop light at the intersection of McKendree Rd, and Brawley School Rd. He also stated that Brawley School Rd. would be a controlled access road. The entrances in and out of the access will be right turn only, the other access points will be on McKendree with access to the stop light. Mr. Homsley states that a portion of the house will be removed due to the DOT plan. Mr. Homsley stated that Brawley School Rd. will be a four lane Highway and stated that citizens of Iredell County need to ask themselves if residential use is viable on this road and intersection. He states this will be a less intensive use than what he feels will be seen later if light office uses are not created along Brawley School Rd. Mr. Homsley stated that a business here will serve the community of Brawley School Rd. and he feels this will create a sense of community.

Ms. Johnson asked how much usable land will be left taking in the consideration of the watershed and Mr. Homsley stated there would be about 24% of usable land. Mr. Homsley states that several tracts will need to be combined to make this land usable.

Mr. Homsley states he believes that a business there will serve a purpose of keeping the neighbors from having to go into town and create more traffic. Ms. Johnson stated she agrees.

Mr. Homsley stated there is a Tree Service in operation now that is grandfathered in. Mr. McNelly asked if the Tree Service will remain in operation and Mr. Homsley stated yes that there are no plans to do anything with the property at this time.

Mr. McNeely asked if Mr. Hinson owned the Tree Service and Mr. Homsley stated yes he does.

Karen Anderson is a joining property owner and stated that she and her husband are not in agreement with the Rezoning. The Department of Transportation is already taking  $\frac{3}{4}$  of her front yard. She stated that she is concerned with the value of her home and wonders if it will be worth what she currently owes on the property. Ms. Anderson stated the her family has worked hard to do repairs and keep the house and yard neat. Ms. Anderson stated that the previous owners kept the yard very neat but since the Hinsons have bought the property there are piles of mulch, rats and other various troublesome things. She stated that they have no control over DOT and that the widening of Brawley School Rd. is something that she looks forward

too. Ms. Anderson stated that she does not want another business in her side yard.

Ms. Anderson stated that rumors have been spread about a gas station going on the property.

Ms. Johnson asked what would be required of a buffer for the property. Mr. McHargue stated that the RO district doesn't require a buffer. Ms. Anderson stated that her property is narrow and long and there is no room for a buffer.

Mr. McNeely stated when he went to the property he saw a mulch pile and asked if there is a fence behind that was her property line and Ms. Anderson stated that was her property.

Mr. Pruitt stated that a gas station was not allowed in a RO district.

Mr. McNeely stated that there is a large house and office building on the property now and at it's grandfather status interfered with the watershed regulations. He stated if it was rezoned the new building would not be allowed to be as large. He stated he was in favor of denial.

No one else wished to speak in regards to this request. Dr. Griggs stated that since she was familiar with the Brawley School Road Land Use Plan and some of the issues she recommended for Denial due to the request not being consistent with the Brawley School Peninsula Small Area Plan. Mr. Stevens seconded said motion and all agreed. Votes 9-0

**EXPANSION OF A NONCONFORMING USE; BILLY LEE & REBECCA CARTER PROPERTY:** Mr. McHargue presented the staff report:

<u>OWNER:</u>	Rebecca and Billy Lee Carter 322 Midway Lake Road Mooresville, NC 28115 (704)892-0123	<u>APPLICANT:</u>	Lillian & John Regan 17045 Freshwater Lane Cornelius, NC 28031 (704)895-9175
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LOCATION: 2189 Mecklenburg Highway, more specifically identified as PIN#4654-35-0730. Directions: South from Mooresville on Mecklenburg Highway, property on left at the Iredell/Mecklenburg County line.

REQUESTED ACTION: Expansion of a Non-Conforming Use

PROPOSED USE: Continued use as a restaurant.

SIZE: 3.5 acres.

EXISTING LAND USE: Local Restaurant and bar (Bill's Anchor Grill) serving breakfast and lunch with limited menu on Friday and Saturday evenings.

SURROUNDING LAND USE: Commercial/Industrial, Residential.

WATERSHED REGULATIONS: This property is not located within a Watershed area.

TRAFFIC: In 2004 there was an average of 10,000 vehicles per day on this section of Mecklenburg Highway. According to the Iredell County Thoroughfare Plan, this section has a carrying capacity of 10,500 vehicles per day.

ZONING HISTORY: This property has been zoned RA since Countywide zoning took effect in 1990.

STAFF COMMENTS: The Iredell County Zoning Ordinance allows non-conforming uses to expand based upon the applicant's meeting several criteria:

- a. The enlargement will not cause substantial harm to the adjoining property owners.

- b. The enlargement will not result in traffic increases beyond the capacity of the roads serving said use.
- c. The enlargement will not result in emission of smoke, fumes, noise, odor, or dust which will be detrimental to the character of the district or to the health, safety, or general welfare of the community.
- d. The enlargement will maintain all minimum setbacks and buffer requirements of the use district in which said use would be permitted.

**Background:** Bill's Anchor Grill has operated at this location for many years and has a local customer-base. The applicants wish to purchase the property and expand the restaurant's capacity. Expansion would occur to the rear of the existing building. The applicant plans on a phased-in timeline of improvements to this building. If this request is approved it is likely that the full expansion would not occur immediately, as considerable investment would be required to update this building that dates to the early 1900's. This property is located directly on Mecklenburg Highway across from property owned by Ingersoll-Rand on the opposite side of the road. Despite the mix of commercial and residential land-uses in the area, the South Iredell Small-Area Plan would not support an actual rezoning of this property; therefore, the applicants seek to continue this business via Expansion of a Non-conforming Use.

**Evaluation of Criteria:** The Zoning Ordinance provides the above-referenced criteria that must be met for an applicant to expand a non-conforming use. Items A, B, and C should be considered in light of the property's location. It is located directly on a major highway that already contains heavy traffic volume; a rail line is located across the highway. Additionally, a major industry owns property directly across the road, and there are no immediately-adjacent land-uses that would seem to suffer a negative impact by this expansion. The property is large enough to accommodate the expansion and necessary parking while still maintaining a good natural buffer against adjacent properties. Item D would be met by the applicant's plans to expand toward the rear of the existing building. In summary, the location of this property lends itself well to an expansion of this nature and staff therefore recommends in favor.

Mr. McHargue stated that the South Iredell Land Use Plan doesn't support a rezoning and that is why they are applying for an expansion. The site plan shows that the applicant wants to expand seating capacity which will require expanded parking also. Mr. McHargue stated that a good buffer will remain.

John Regan is the applicant interested in buying the property and expanding it. He stated that the property has been owned by the Carter's since 1984. He stated that the business would run as usual and the 3000 sqft addition would be done in phases.

Dr. Griggs stated that when she looked at the site there were trucks coming in and out with dirt. She asked if this was for additional parking.

Mr. Regan stated that one the customer of the establishment was doing work in that area and offered to give free dirt to expand the parking lot.

Mr. McNeely asked if the proposed addition in phases was a legal way to go about this. After discussion it was decided that there is no stipulation that requires applicants to build or follow through with the expansions.

Ms. Johnson asked if the property would need to go through plan review and Mr. Niblock stated yes all proper permits would be required.

Mr. Fields asked if the staff would look at the section in the ordinance pertaining to expansions of non-conforming uses. After much discussion Mr. McHargue stated the staff would.

Mr. McNeely stated that in the future instead of applying for an expansion the applicant should seek a Rezoning request instead.

There being no further discussion on this request Mr. McNeely made a motion to approve the expansion of this non-conforming use and Ms. Johnson 2<sup>nd</sup> said motion:

AYES: Grigg, Johnson, McNeely, Pruitt, Rash, Santoni, Stephens, Williams

NOES: Fields

The motion passed in favor by a vote of 8-1

**PROPOSED AMENDMENT TO THE IREDELL COUNTY ZONING ORDINANCE:** Ms.

Harper presented the following amendments (*see attachment in file*):

- Article IV. Non-Conforming Situations
- Article VII. Table of Special and Permitted Uses
- Article X. Off-Street Parking & Loading
- Article XI. Signs

Dr. Grigg made a motion to approve Article IV. Of the Iredell County Zoning Ordinance since it is consistent with the land use plan and it's purpose of serving the polices and guide for dealing with the growth and development of Iredell County. Mr. Santoni seconded said motion and all were in favor. Votes 9-0

Dr. Grigg made a motion to approve Article VIII. Of The Iredell County Zoning Ordinance since it is consistent with the Land Use Plan and purposes of serving a policy guide to Iredell County. Mr. Williams seconded the said motion and all were in favor. Votes 9-0

Mr. McNeely made a motion to approve Artice X. in the Iredell County Zoning Ordinance as written. Mr. Pruitt seconded said motion and all were in favor. Votes 9-0

Mr. Stevens made a motion to approve Article XI of the Iredell County Zoning Ordinance as written. Mr. Rash seconded said motion and all were in favor. Votes 9-0

**PROPOSED AMENDMENT TO THE IREDELL COUNTY SUBDIVISION ORDINANCE:** Mr.

McHargue presented the following amendments (*see attachment in file*):

- Section 305.3, Approval of Final Plat by the Subdivision Administrator and Recording
- Section 308.3, Review Procedure
- Section 309.3, Submission Procedure

Mr. McHargue stated that recent discussions about growth management in Iredell County lead us to the possibility of witnessing an increasing number of subdivision plats being submitted for approval. The Subdivision Ordinance provides for certain timelines in this regard. The proposed amendments would have the practical effect of enabling the Subdivision Review Committee to table such approvals should scheduling of increasing numbers of applications become problematic.

Mr. McHargue stated that in follow-up to comments at last month's meeting, we have changed the Subdivision Administrator's review time for Minor subdivisions from 30 days to 31 days (Section 305.3); again, this will make this approval-timeline uniform with that of Major subdivisions (Sections 308.3 and 309).

Mr. Williams made a motion to approve all proposed changes to the Iredell County Subdivision Ordinance. Mr. Pruitt seconded said motion and all were in favor. Votes 9-0

**MONTHLY COMMITTEE ASSIGNMENTS:** Mr. Pruitt & Mr. Stevens volunteered to attend the August 16<sup>th</sup> Subdivision Review Committee meeting at 10:00am in the Old City Hall. Mr. Pruitt & Mr. McNeely volunteered to go on the site visit for next month's requests on Tuesday, August 22<sup>th</sup>.

**ADJOURNMENT:** There being no further business, Chairman Fields declared the meeting adjourned at 8:40 p.m.

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*Alaina Dillard*  
*GIS Addressing Technician*

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*Date Read and/or Approved*