

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

The Iredell County Planning Board met on Wednesday, February 1, 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  
Harry Tsumas, Jr.  
Alan Williams

### **STAFF PRESENT**

Katrina Hewitt  
Richard McHargue  
Steve Warren

### **MEMBERS ABSENT**

Kristi Pfeufer

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

**MINUTES:** Mr. Tsumas made a motion to approve the 1/4/06 meeting minutes. Mr. Pruitt seconded said motion and all agreed. **VOTES: 10-0.**

**REZONING REQUEST; LAKE NORMAN VFD PROPERTY, CASE NO. 0602-1:** Mr. McHargue presented the staff report:

**OWNER:** Lake Norman Volunteer Fire Dept.  
1206 Brawley School Road  
 Mooresville, NC 28117  
Phone: (704)664-2468

**APPLICANT:** Frank Phillips  
200 Ringneck Trail  
 Mooresville, NC 28117  
(704)873-1835 ext. 233

**LOCATION:** 1206 Brawley School Road, Mooresville NC 28117; more specifically identified as PIN# 4636-26-4858.  
**Directions:** From Mooresville, south on Brawley School Road; Fire Department property is on right past intersection of Blume Road.

**REQUESTED ACTIONS:** 1) Rezone a portion of subject parcel from RA, Residential Agricultural to NB, Neighborhood Business; 2) Amend Roadway Protection Overlay (RPO) District to include entire parcel; and 3) Amend the Brawley School Road Small Area Plan

**PROPOSED USE:** Any and all uses allowed in NB.

**SIZE:** .38 acre to be rezoned; parcel totals 1.03 acres.

**EXISTING LAND USE:** Parking area for Lake Norman Volunteer Fire Department.

**SURROUNDING LAND USE:** Residential and Commercial.

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

**TRAFFIC:** According to NCDOT traffic counts, this stretch of Brawley School Road had an average of 12,000 vehicles per day. According to the 1993 Thoroughfare Plan, this road has an approximate carrying capacity of 9,000 vehicles per day.

**ZONING HISTORY:** The existing NB-portion of the subject property has been zoned as such since the early 1980's while the RA portion has been zoned since countywide zoning took effect in 1990.

**STAFF COMMENTS:** Most of this property has been zoned NB since the early 1980's; the subject portion was added to the Fire Department's property in 1989. The area requested is thus an attempt to bring the remaining portion of the parcel into zoning conformity with the original NB designation. The Brawley School Road Small Area Plan was adopted in 2002 and shows the subject property as future Residential; however, in present times the Fire Department has expanded, plans to move to a new facility south of their existing station, and thus desires to sell the subject parcel. It would appear unlikely that this property today would offer a highest and best use as residential. Future land use patterns indicate the suitability of this general area for commercial usage; in this particular case with the property fully fronting Brawley School Road and the station having existed there for many years, staff feels that this parcel should be included in the Commercial area of the Land-Use Plan. Additionally, the RA portion is small enough (80' wide by 206' long) where it would not allow for further subdivision and construction of a residential dwelling, so refusing a rezoning based on the current Land Use Plan may not realistically accomplish anything positive for the community or the property owner. For these reasons and to apply the existing NB zoning uniformly on the property, staff recommends in favor of the request. ***Statement of Land-Use Plan Consistency:*** With the amendment to the Land-Use Plan, this aligns the subject property with likely future land-use patterns and the parcel's highest and best use given its location, existing structures, and partial-NB zoning classification.

Frank Phillips, Lake Norman VFD Treasurer, stated that they just wanted to be able to sell their property with the NB zoning classification on the entire tract. Mr. Phillips stated that they were not even aware that part of the property was zoned NB; that it must have been done back in the 1980's.

Ross Adams, adjoining property owner, stated that he has lived next door to the fire department since 1985. Mr. Adams stated that he has been a supporter of LNFD and that he actually sold the portion of the property in question tonight to the fire department in the late 1980's. Mr. Adams stated that they live there and are opposed to zoning to commercial only to help the seller make more money on the property. Mr. Adams stated that this property is on Brawley School Road (2.2 miles from the Williamson Road intersection) and at 7:45 am this morning, the traffic was backed up in front of his house. Mr. Adams also stated that there are no public utilities and commercial zoning is not suitable. Mr. Adams stated he was not aware of the County rezoning the fire departments property to NB. Mr. Adams stated that he wasn't against proper development but felt it should be more site specific.

Mr. McNeely stated that he was on the site visit and he understands his concerns about other homes in the area, but this is a small parcel (one acre) with an existing building already on the property. Mr. McNeely stated the best and highest use is commercial and the "NB" zoning classification is the most restrictive along with the RPO protection. Mr. Tsumas asked with the NB zoning in place why the Land Use Plan wasn't amended. Mr. McHargue stated he could not answer why the County didn't include it. Mr. Tsumas asked Ron Smith (*former Planning Supervisor who happened to be in the audience on another request before the Board*) if he knew the answer to why the Land Use Plan wasn't amended. Mr. Smith stated they thought at the time since the zoning was already in place and the fire department could remain as is that we didn't feel like going forward and rezoning any further at that time, therefore they didn't amend the Land Use Plan.

Mr. Stephens stated that in the past this Board has asked for more site-specific plans. Dr. Grigg stated that she was on the site visit and the area to be rezoned was not a large area.

After further discussion, Mr. McNeely made a motion to recommend amending the Brawley Peninsula Small Area Plan to include the entire parcel in a commercial node based on the Statement of Land Use Plan Consistency: *With the amendment to the Land Use Plan, this aligns the subject property with likely future land use patterns and the parcel's highest and best use given its location, existing structures, and partial-NB zoning classification.* Dr. Grigg seconded said motion; and

AYES: McNeely, Grigg, Fields, Johnson, Pruitt, Rash, Santoni, Tsumas, Williams

NOES: Stephens

The motion passed in favor by VOTES: 9-1.

Mr. McNeely made a motion to amend the RPO, Roadway Protection Ordinance to include the entire parcel based on the above *Statement of Land Use Plan Consistency*. Dr. Grigg seconded said motion; and

AYES: McNeely, Grigg, Fields, Johnson, Pruitt, Rash, Santoni, Tsumas, Williams

NOES: Stephens

The motion passed in favor by VOTES: 9-1.

Mr. McNeely made a motion to recommend approval of the rezoning based on the above *Statement of Land Use Plan Consistency*. Dr. Grigg seconded said motion. Dr. Grigg stated that the fire department deserves to get the best and highest use for their property. Ms. Johnson stated that she is opposed because of possible uses in the NB district that are not consistent with the area. Mr. Williams stated that with the required 30' buffer that it won't leave a whole lot of the parcel to be used.

After further comments, Mr. Tsumas called the question and the Board voted:

AYES: McNeely, Grigg, Fields, Pruitt, Tsumas, Williams

NOES: Johnson, Rash, Santoni, Stephens

The motion passed in favor by VOTES: 6-4.

**PROPOSED TEXT AMENDMENT TO THE IREDELL COUNTY ZONING ORDINANCE; SR50, WIRELESS TELECOMMUNICATION TOWERS – SUBMITTED BY RON SMITH, REPRESENTING THE BERKLEY GROUP:**

Mr. McHargue stated that last month Ron Smith presented a proposed draft of a revision to the cell tower ordinance. The key point to the revision was that flexibility would be given to cell-towers in their selection of suitable property for their service. This will be accomplished through decreasing the required setback from the current ordinance upon an engineer's certification of the fall-zone surrounding the tower. The County code has in the past required a 'one-to-one' ratio (one foot setback per one foot in vertical height) plus 25 feet. The proposed amendment eliminates this additional 25-foot requirement while keeping the 'one-to-one ratio' under normal circumstances; however, a lesser setback may be granted upon an engineer's certification.

Mr. McHargue stated that the staff has reviewed the attached amendment over the past month and is supportive of the proposal. A key requirement of keeping towers 500 feet away from existing residences has been in the ordinance and is not proposed to be changed, so the negative impact to nearby homeowners should remain minimal while allowing towers the flexibility to find suitable locations in an environment of rapid development and, consequently, less available large tracts of land.

Ron Smith presented a proposal to amend the Iredell County Zoning Ordinance, specifically SR 50, Wireless Telecommunication Towers:

The proposed changes are relatively simple in their scope. The first, and most significant, is in SR 50, B. This section deals with the required setbacks for all wireless telecommunication towers. The current requirement is for a setback of one foot per one foot in vertical height of the tower, plus twenty-five feet.

I would propose that you consider changing this to a one to one ratio with an allowance for a decreased

setback upon certification by an engineer that the fall area would be less than the typical setback. In this situation, an engineer's certification makes the required setback less arbitrary. It also puts more of a burden on the provider, which is taking more responsibility in the location of the tower. Because the required five hundred foot setback between any tower and a pre-existing home is not proposed to be changed, the potential conflict with adjacent property owners concerning falling ice and debris, as well as the scale of the tower, is thereby untouched.

The second change is directly related to the first. In the event that a tower is permitted with a decreased setback, this proposed change would allow for the accessory building(s) associated with the tower to be located closer to the property lines as well.

#### SR 50. Wireless Telecommunication Towers and Facilities

- A. A site plan shall be submitted containing the name of the tower owner, property owner, scale, north arrow, and latitude/longitude coordinates. Existing site conditions, including contours, any unique natural or man-made features such as vegetation and ground cover. Exact boundary lines of the property containing the proposed tower construction, fall radius and any associated guide wires. Description of adjacent land use and all property owners(s) and their addresses. A front and side elevation profile, drawn to scale, of all existing and proposed towers and their antennas to be located on the property.
- B. **Towers shall be sited to contain all ice-fall or debris from tower failure within the setback area. The minimum distance from the tower's base to the property line shall be one foot to each vertical foot of the tower's height. However, a lesser setback shall be permitted upon certification by a NC Registered Professional Engineer which ensures that the fall area of the tower and any appurtenances will be within the setback area proposed.** Towers shall have a setback of one foot for each one foot in height of tower, plus twenty five (25) feet from all property lines and rights of way, as measured from ground level.
- C. Towers shall not be located within a one-half (1/2) mile radius of any other wireless telecommunication tower, unless concealed in a church steeple, farm silo, or other architecturally designed encasement. Furthermore, towers located beyond a one-half (1/2) mile radius and not exceeding three (3) mile radius from any other wireless telecommunication tower shall not be permitted, unless the applicant can prove that collocation is not a viable option and no stealth location is possible.
- D. Towers shall be no closer than five hundred (500) feet from any existing residential dwelling, excluding any dwellings located on the same parcel of land as the tower.
- E. Towers with a height of two hundred and fifty (250) feet or greater shall be subject to Board of Adjustment approval as a Special Use Permit.
- F. Towers shall not exceed three hundred and fifty (350) feet in height as measured from ground level.
- G. Towers with a height greater than one hundred-fifty (150) feet shall be constructed to permit the capability for the collocation of additional provider antennas as follows:
  - 151 feet to 200 feet - two additional antennas
  - 201 feet to 250 feet - three additional antennas
  - 251 feet to 300 feet - four additional antennas
  - 301 feet to 350 feet - five additional antennas
- H. The applicant shall be required to provide written documentation showing that no proposed tower lies within a thirty (30) foot to one (1) foot run to rise ratio from the nearest point of the nearest runway of a private airstrip or airport registered with the Federal Aviation Administration (FAA).
- I. No business signs, billboards, or other advertising shall be installed on a tower, nor shall any tower be painted or have a color considered obnoxious or offensive.
- J. No offices or outdoor storage of equipment or materials are permitted on tower sites located in a residential district.

- K. Accessory or component buildings shall be setback fifty (50) feet from all property lines and rights-of-way. **However, if the required setback of the primary tower is less than fifty (50) feet the required setback for accessory structures shall be the same as that of the tower.**
- L. All structures shall be enclosed by a chain link fence at least eight (8) feet in height and screened subject to Section 12.1.
- M. The applicant shall be required to provide written documentation stating that the tower is in compliance with all applicable Federal and State regulations.
- N. Notice shall be provided to the planning department when any telecommunication tower is placed out of service. Towers not used for a period of six (6) months or more shall be removed by the owner within one hundred and twenty (120) days of receipt of notification to that effect. The applicant shall also provide the County with written documentation substantiating that the applicant has and will sustain the financial ability to disassemble and remove the tower, once no longer in operation.
- O. Additional provider antennas and equipment shelters associated with an approved telecommunication tower site are permitted, provided said changes do not increase the setback requirement beyond the allowable limit according to tower height.
- P. Tower lighting shall not exceed the minimum for red obstruction lighting as administered by the Federal Aviation Administration (FAA).
- Q. All permits for the construction of a wireless telecommunication tower are issued in reliance upon a presumption that the tower will in fact conform to the plans which are submitted as the basis for the permit. Once constructed, the tower must continue to be maintained in compliance with the provisions of this ordinance.
- R. The applicant shall be required to notify all property owners within a one-half (1/2) mile radius of a proposed tower with a height greater than two hundred-fifty (250) feet. The notice shall be by certified mail and shall include tower height and design type and date, time and location of the proposed meeting.
- S. The applicant shall be required to provide written documentation stating that it is not viable to co-locate on existing facilities within the coverage area. Facilities includes other towers, elevated tanks, electrical transmission lines, or other structures.
- T. The applicant shall provide the County with proof of liability insurance which protects against losses due to personal injury or property damage resulting from the construction or collapse of the tower, antenna, or accessory equipment. Such proof shall be supplied to the County by the applicant at the time of application.
- U. The applicant shall provide to the planning department an inventory of its existing antennas and towers that are either within the jurisdiction of the County or within three (3) miles of the border thereof, including specific information about the location, height, and design type of each tower and antenna. The applicant shall also provide an inventory of potential future tower sites within the jurisdiction of the County. The planning department may share such information with other applicants; however, that by sharing this information, it is not in any way representing or warranting that such sites are available or suitable.

Mr. McHargue presented the **Statement-of-Consistency with Land Use Plan**: This Amendment is consistent with the Land-Use Plan's purpose of serving as a policy guide in making future recommendations dealing with the growth and development of the County; specifically, this Amendment recognizes the changing patterns of available land for infrastructure while balancing this need with the public health, safety, and welfare.

After review and discussion by the Board, Mr. Tsumas made a motion to recommend approval based on the Statement of Consistency with the Land Use Plan as stated above. Ms. Johnson seconded said motion; and

AYES: Tsumas, Johnson, Fields, Grigg, McNeely, Pruitt, Rash, Stephens, Williams

NOES: Santoni

The motion passed in favor by VOTES: 9-1.

**PROPOSED TEXT AMENDMENTS TO THE IREDELL COUNTY ZONING ORDINANCE; SUBMITTED BY THE TEXT AMENDMENT SUBCOMMITTEE:** Mr. McHargue stated that the Text Amendment Subcommittee has met several times to confer with the Planning Staff on a variety of revisions to the County's Zoning Ordinance; the attached material was first reviewed by the full Planning Board in December 2005. The materials attached have been reviewed in depth and are ready for the Planning Board's recommendation to the Board of Commissioners.

This first round of revisions has included the addition and revision of various definitions to the "Definition" section of our Ordinance. Some of these revisions also necessitated some changes regarding the districts in which various uses are allowed, as well as noted amendments to the Special Requirement ("SR") sections for those particular uses; where appropriate, such changes are noted and would be amended on the matrix of permitted uses.

The attached revisions/materials are as follows:

- Restaurant & Bar
- Bona-Fide Farm
- Farm Buildings
- Farm-Type Enterprises
- Kennels/Animal Shelters/Grooming
- LCID Landfills
- Rural Commercial Recreational Facilities
- Article 19: "Definitions"

At the last Planning Board meeting, it was decided that the Subcommittee would revisit several items. The results of this follow-up research are as follows:

- The definition and diagrams for "building lines" have been removed from this current package of amendments. Staff is conducting further research to be certain and confident in a final proposal of this planning principle.
- Animal shelters were reviewed in terms of their appropriateness in various zoning districts. It was questioned whether they should be allowed by right in all districts as originally proposed; this logic was based on the fact that most such organizations are nonprofit in nature and therefore would need flexibility in access to affordable land. After discussion by the Subcommittee, it was decided not to eliminate them entirely from any districts but to require a Special Use Permit within certain ones (R-20, R-12, R-8, R-8A, R-O, O-I, and SC).
- The possibility of limiting the number of animals a private individual may own was also researched. It is not advised to adopt such a limitation; some of the general reasons for this recommendation are as follows:
  - Laws that criminalize pet ownership based on numbers alone have been declared unconstitutional in some states because they do not address the need to control nuisances or provide for the health and safety of residents.

- A pet limit is difficult to enforce without increased presence of animal control or law enforcement agencies for this purpose. If the law is enforced only upon complaint, it becomes just another law for people to circumvent and further erodes confidence in legislative bodies.
- Numbers tend to have little to no relationship to nuisances. In other words, a person with one dog that runs loose or barks all night is a greater nuisance than a person with a dozen dogs that are quiet, clean, and kept at home. (Iredell County has a Noise Ordinance to address such situations).
- Limiting the number of animals owned may present hardships to people who raise show dogs or participate in canine/animal rescue operations.
- Number limits could also force people to give up animals they own, thus causing crowding in local shelters or denying some the opportunity to adopt animals.

**(SEE ATTACHED COPY OF TEXT AMENDMENTS)**

Mr. McHargue presented the **Statement-of-Consistency with Land Use Plan**: These Amendments are consistent with the Land-Use Plan's purpose of serving as a policy guide in making future recommendations dealing with the growth and development of the County; specifically, these Amendments are consistent with the Plan's recommendation that the Zoning Ordinance Text undergo a comprehensive review and expansion of its various definitions.

Mr. Tsumas suggested adding the word "commercial" in SR 29 (e) and add the words "by a municipality or the NCDOT" in the private road definition. After further review and discussion, Mr. Tsumas made a motion to recommend this first group of text amendments with the two corrections and the *Statement of Consistency with the Land Use Plan* as stated above. Mr. McNeely seconded said motion and all agreed. **VOTES: 10-0**.

**MONTHLY COMMITTEE ASSIGNMENTS**: Mr. Pruitt & Mr. Stephens volunteered to attend the February 15<sup>th</sup> Subdivision Review Committee meeting at 10:00am in the Old City Hall.

Dr. Grigg, Mr. McNeely, Mr. Pruitt, and Mr. Santoni volunteered to go on the site visit for next month's requests on Tuesday, February 14<sup>th</sup>.

**ADJOURNMENT**: There being no further business, Chairman Fields declared the meeting adjourned at 8:45 p.m.

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Katrina Hewitt  
Planning Support Specialist

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Date Read and/or Approved