

IREDELL COUNTY PLANNING BOARD

The Iredell County Planning Board met on Wednesday, **February 7, 2007** 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
Kristi Pfeufer
Harold Pruitt
Franklin Rash
Jerry Santoni
Thomas E. Stephens
Harry Tsumas, Jr.
Alan Williams

STAFF PRESENT

Katrina Hewitt
Steve Warren
Ricky Hurley

MEMBERS ABSENT

None

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

MINUTES: Dr. Grigg made a motion to approve the 1/3/07 meeting minutes. Mr. Pruitt seconded said motion and all agreed. **VOTES: 8-0.** *Note: Ms. Johnson, Mr. McNeely, and Mr. Tsumas were not present.

(MS. JOHNSON & MR. MCNEELY ARRIVED AT THIS TIME)

TABLED REZONING REQUEST; JENNIFER & BOBBY KNOX JR PROPERTY, CASE NO. 0701-7: Mr. Hurley presented the staff report:

<u>OWNER :</u>	Jennifer & Bobby Knox, Jr.	<u>AGENT:</u>	Dick Brolin
<u>/APPLICANT:</u>	364 Ingram Road Statesville, NC 28625		Piedmont Design Associates 125 East Plaza Drive Ste 104 Mooresville, NC 28115

LOCATION: Located at 104, 105, 110, & 122 Brown Ridge Lane in Mooresville, NC; more specifically identified as PIN#'s 4658-53-5107, 4658-52-4964, & 4658-53-1139. **Directions:** Take Charlotte Highway north from Mooresville, turn right on to Brown Ridge Lane, property is on both sides of named private drive.

REQUESTED ACTION: Rezone subject parcels from RA, Residential Agricultural to HB-CUD, Highway Business Conditional Use and amend the Iredell Land Use Plan.

- ♣ Uses limited to office and retail uses along frontage and mini-warehouses to rear of property.
- ♣ Office and retail limited to 3,300 square feet.
- ♣ Mini-warehouses limited to 70,000 square feet.

PROPOSED USE: Offices/retail and mini-warehouses.

SIZE: 6.02 acres.

EXISTING LAND USE: Residential.

SURROUNDING LAND USE: Residential uses abut this site to the south and east, and a mixture of small commercial retail and residential uses to the north and across US 21 to the west.

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

TRAFFIC: This section Charlotte Highway had an average of 11,000 vehicles per day in 2005.

ZONING HISTORY: The subject parcels have been zoned RA when countywide zoning took effect in 1990. A commercial node was identified in the Iredell County Land Use Plan that centers approximately on the intersection of Cornelius Road and Charlotte Highway. Two existing areas of Neighborhood Business zoning were applied when county-wide zoning occurred in 1990. One such area lies directly across from the applicant's property but falls outside the designated commercial node. The other such NB district follows the western side of Charlotte Highway just south of Cornelius Road to approximately Glory Road where a significant GB-CUD zoning was approved in Feb. of 2001 to accommodate the expansion of an existing business already established on that site. Other recent rezonings have occurred on the east side of Charlotte Highway at the intersection of either Laura Road or Cornelius Road for NB or HB-CUD, but all requests were within the designated commercial node as shown on the land use plan.

STAFF COMMENTS: The Iredell County Land Use Plan identifies this area as suitable for residential uses; however, this site is adjacent to a commercial node identified in the land use plan. The Iredell County Land Use Plan will need to be amended for this proposed rezoning. The applicant has chosen the HB-CUD classification and to restrict the uses to those shown on the submitted concept plan. Applicant has also decided to limit the square footage of both the proposed office/retail building and the mini-warehouses. The depth of this property will result in the proposed uses intruding into a small but established neighborhood that otherwise would not be negatively affected by neighborhood commercial uses along Charlotte Highway. The Cornelius Road and Charlotte Highway intersection has traditionally served as a small scale and locally oriented business mixture with an exception being the long established Overcash Electric property. Although the applicant has revised the concept plan to avoid the Duke Energy right-of-way across the rear portion of the property and to address concerns of some adjacent property owners regarding run-off and aesthetics. Staff is still recommending against this request since it is not consistent with the Iredell County Land Use Plan and concern that the scale of this project is out of character for the area and will negatively impact adjacent residential uses, especially those dwellings on adjacent properties to the north and east.

After reviewing the site plan Chairman Fields asked if this was part of the conditional proposal and Mr. Hurley stated it was more of a conceptual plan. Mr. Pruitt asked then what has changed since last month when this request was before this Board. Mr. Hurley stated the request has the same conditions but they presented different drawings but this is not a site specific plan.

Dick Brolin, Piedmont Design Associates, stated that they intended for the plan as shown, although it's conceptual in nature that a good amount of engineering went into it with a rough grading plan and sizing of detention pond, to be submitted as part of the conditional use zoning. Mr. Brolin stated that they were under the assumption that the Board would not be favorable upon speculative rezoning at this location.

Mr. Brolin explained that the plan showed the office being located along the road and due to the slope of the land the mini-warehouses would be located to the rear. Mr. Brolin stated that the project was proposed in five phases. Mr. Brolin also stated there would be no water flowing off-site. Mr. Brolin stated that this area has a lot of potential for growth but there wasn't a market for office/retail at this time and felt the mini warehouse was a better use for now.

Dr. Grigg asked about the neighbor's view behind this property and Mr. Brolin stated due to the topography and the landscaping/fencing that they would not see the buildings but should see the trees. Mr. McNeely asked about the time line for the different phases and Mr. Brolin stated Phase I & II should be in a couple years and the remaining phases sometime later.

Mr. Pruitt had some technical questions that Mr. Pruitt answered and the Board continued to review the site plan. Chairman Fields asked the staff if they were still opposed even with the site plan being part of the conditions. Mr. Hurley stated the staff was still opposed.

(THERE WAS NO ONE ELSE PRESENT TO SPEAK IN REGARD TO THIS REQUEST)

Mr. Pruitt made a motion to amend the Iredell County Land Use Plan. Dr. Grigg seconded said motion and all agreed. **VOTES: 10-0.** *Note: Mr. Tsumas was not present.

Mr. Pruitt made a motion to recommend approval (with the site plan being part of the conditions) of the zoning map amendment and to advise that it is consistent with the Iredell County Land Use Plan. Mr. McNeely seconded said motion and all agreed. **VOTES: 10-0.** *Note: Mr. Tsumas was not present.

(MR. TSUMAS WAS PRESENT FOR THE FOLLOWING REQUESTS)

REZONING REQUEST; NORTH POINT RESOURCES LLC PROPERTY, CASE NO. 0702-1:

Mr. Hurley presented the staff report:

OWNER: North Point Resources, LLC **APPLICANT:** Brian Fletcher, Partner
124 Iron Gate Circle
 Mooresville, NC 28117

LOCATION: The property is located at 1084 Charlotte Highway, being in the southern quadrant of the interchange for I-77 and Charlotte Highway in Troutman, NC; more specifically identified as PIN#'s 4740-93-6021. **Directions:** Take Charlotte Highway south from Troutman; property on right approximately ¼ mile south of the existing truck stop.

REQUESTED ACTION: Rezone subject parcel from RA, Residential Agricultural to GB-CUD, General Business Conditional Use District.

- ♣ All utilities must be underground.
- ♣ Apply RPO standards only for signage, outdoor lighting, and landscaping.

PROPOSED USE: Any and all GB uses.

SIZE: 1.0 acres.

EXISTING LAND USE: Single Family Residential.

SURROUNDING LAND USE: Residential uses are adjacent to north and south of site, vacant commercial land to west and a landscaping business directly across Charlotte Highway.

WATERSHED REGULATIONS: The subject parcel is not located within a watershed area.

TRAFFIC: This section of Charlotte Highway had an average of 11,00 vehicles per day in 2005; according to the 1993 Iredell County Thoroughfare Plan, this section of Charlotte Highway has a carrying capacity of 10,500 vehicles per day.

ZONING HISTORY: The subject parcel has been zoned RA when countywide zoning took effect in 1990. Several rezoning cases have been approved at this interchange in anticipation of commercial development occurring as the Town of Troutman extends utilities into this area. All parcels adjacent to the requested site have been rezoned as Highway Business or General Business, with the most recent rezoning approved in August of 2006 for GB-CUD to allow for a wholesale and distribution facility and possible future office/retail development.

STAFF COMMENTS: The Exit 42 Small Area Plan identifies this area as suitable for future interchange commercial development. The applicant has chosen the GB-CU District classification, which allows for a greater range of commercial uses and is similar to other nearby commercial properties. All adjacent parcels are zoned commercial and staff recommends in favor of this request since it is consistent with the Exit 42 Small Area Plan.

Michael Heinen, Partner of North Point Resources, stated he was available to answer any questions the Board may have. Dr. Grigg asked what the proposed use was and Mr. Heinen stated retail use.

(THERE WAS NO ONE ELSE PRESENT TO SPEAK IN REGARD TO THIS REQUEST)

After further discussion, Mr. McNeely made a motion to recommend approval of the zoning map amendment and to advise that it is consistent with the Exit 42 Small Area Plan. Mr. Pruitt seconded said motion and all agreed. **VOTES: 11-0.**

REZONING REQUEST; PERTH LANDSCAPING SUPPLY LLC PROPERTY, CASE NO. 0702-2: Mr. Hurley presented the staff report:

OWNER : Perth Landscaping Supply, LLC
199 Waddell Road
 Mooresville, NC 28117

AGENT: Vic S Crouch
138 Ravenwood Drive
Statesville, NC 28677

LOCATION: 1453 Perth Road in Mooresville, NC; more specifically identified as PIN#s 4649-07-2159, 4649-06-3917, 4649-06-4990 and 4649-06-3729. Directions: From Troutman, South on Perth Road; property on left approximately ¼ mile past Fern Hill Road at Knotty Pine Lane intersection.

REQUESTED ACTION AND CONDITIONS: 1) Amend the Iredell County Land-Use Plan; 2) Rezone subject parcels from RA, Residential Agricultural to HB-CUD, Highway Business Conditional-Use District with the following conditions:

- Uses limited to lawn & garden supplies and retail nursery;
- Receiving hours are from 8am to 6pm;
- Trucks 2 tons and up will use lower gate;

PROPOSED USE: Garden Center/Nursery/Landscape Supply Business.

SIZE: 4.07 acres.

EXISTING LAND USE: Garden Center/Nursery/Landscape Supply Business.

SURROUNDING LAND USE: Residential.

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

TRAFFIC: In 2004, Perth Road had an average of 8,200 vehicles per day. According to the Iredell County Thoroughfare Plan, Perth Road has a carrying capacity of 12,000 vehicles per day.

ZONING HISTORY: The subject parcel has been zoned RA since countywide zoning took effect in 1990. In 2003, the property was permitted for a garden center/landscape supply business. This was a permitted use in the RA district at that time, as it fell under the “Farm-Type Enterprise” category of uses allowed within RA. In 2006 the zoning ordinance was amended to separate garden center/landscape supply businesses from the “Farm-Type Enterprise” category; as a matter of illustration, commercial landscape-supply was considered a more intense operation requiring commercial zoning as opposed to the typical roadside vegetable-stand operated by the rural homeowner. As a result of this amendment the existing, permitted business became a legal non-conforming use.

STAFF COMMENTS:

Background: Perth Landscaping Supply was permitted in 2003 at the subject location. A site plan was submitted, updated, and then approved. The approved site-plan required driveway access from Perth Road only, with no access from Knotty Pine Lane. In early 2006 staff began receiving complaints from neighboring residents about truck usage of a driveway that was constructed onto Knotty Pine. Upon investigation, additional zoning violations were discovered relating to setback, signage, and watershed regulations. Staff contacted the applicant in March 2006 with a Notice-of-Violation directing the applicant to come into compliance. The owner initially applied for rezoning to Highway Business, Conditional Use that was presented to the Planning Board on June 7, 2006. The Board voted unanimously to recommend denial of the rezoning. The case was withdrawn from consideration prior to the public hearing held by the Board of County Commissioners at their July 18, 2006 meeting.

Permit Status: The applicant is permitted to operate as shown on the approved site plan. However, an addition onto the rear of the permitted building was constructed without a building permit and in violation of the 80 foot setback. An 80 foot setback from property zoned residential is required for all Farm-type enterprise structures. All other violations have been corrected since the Board last reviewed the request.

Request for Rezoning: Expansion of a Non-Conforming Use isn't a possible option for the applicant because the violations in question involve open uses of land (the Zoning Ordinance allows for Expansion of non-conforming *structures only* through Planning Board and Board of Commissioner approval). Section 4.3 deals with this issue by stipulating that non-conforming open uses of land may not be expanded. In this case the applicant's business has grown, and the business would therefore need the flexibility of a commercial zoning classification on the property.

Staff Analysis & Recommendation: The applicant has requested rezoning to HB-Conditional Use District that restricts all HB uses except for garden centers/retail nursery/landscape supply businesses. While such conditions set forth a specific and known use of this property, the Land Use Plan does not identify any commercial areas nearby. Establishing a new zoning classification would likely be construed as an improper spot-zone in this context of surrounding residential zoning. It should be noted that, without rezoning, the applicant can come into compliance by scaling back the business to what the approved site-plan shows. The increase in the scope and intensity of the business, as well as the change in zoning classification, is not compatible for this area. Due to these factors, staff recommends against this request.

The Board discussed what was on the site currently and what was being proposed. The Board questioned the use of Knotty Pine Lane to access this property and Mr. Hurley stated that NCDOT will not permit a driveway on Knotty Pine. Mr. Hurley stated that the original plan allowed for two driveways on Perth Road.

Vic Crouch spoke on behalf of the applicant and stated he would answer any questions the board may have. Chairman Fields asked Mr. Crouch if the rezoning is not approved what is the intention regarding the building violation and Mr. Crouch stated the addition to the building would have to be torn down. Chairman Fields asked if he was informed by the staff that NCDOT is opposed to using Knotty Pine Lane for access and Mr. Crouch stated that he was not aware of this. Mr. Crouch stated that he felt it was safer to use Knotty Pine Lane.

Mr. Pruitt stated that he went on the site visit and one of his main concerns is the erosion on the site. Mr. Crouch stated that there wasn't any erosion on the site it was in the ditches on Perth Road and Dr. Grigg stated that she agreed with Mr. Pruitt, that there were erosion concerns on this property. Dr. Grigg stated that there was a berm of trees but they were dead. Mr. Crouch stated that the dead trees were replanted this week.

Patsy Bass, 123 Joel's Hill Lane, adjoining property owner, stated she lived directly behind this property and the noise was a constant bother. Ms. Bass stated that they have to see their mess everyday. Ms. Bass talked about the erosion on their driveway from them stripping trees on property that was actually on their property. Ms. Bass stated that this business has devalued their property. Chairman Fields asked Ms. Bass about trucks using Knotty Pine and she was opposed due to traffic and children catching school buses. Ms. Bass also stated that trucks park along the fence and block the view onto Perth Road.

Junetta Dlugokecki, 116 Raykecki Drive, stated her concerns about the history of this property and the disregard for rules including Watershed regulations. She had concerns about safety due to children catching buses off Knotty Pine lane. Ms. Dlugokecki stated that Mr. Stamey is not responsible for what he says he will do and he was given time to correct this violation and he waited until the time was up and has done nothing to rectify the situation.

Jody McGillivay, 335 Marietta Road, stated she had concerns about the landscaping business having pesticides in a residential neighborhood. Ms. McGillivay stated beside environmental issues that she had other concerns like noise and safety issues.

David Turner, Realtor, stated that he lived on Creekwood Drive, and in his professional opinion that the only benefit to rezoning this property to HB would raise the value of Mr. Stamey's property.

Chairman Fields stated that he felt the owner should have obtained a building permit and that this Board should not cure his problem with the building addition that is in violation. Chairman Fields also stated that he strongly feels that this business should not be allowed access by Knotty Pine Lane since it is dangerous and a safety hazard. Chairman Fields stated that in regard to erosion control that this Board has very little that they can do. Ms. Johnson stated that she agreed and the spirit and intent of this neighborhood business has gotten out of control and inappropriate for this residential area.

Ms. Johnson made a recommendation to denial of the zoning map amendment and to advise that it is inconsistent with the Iredell County Land Use Plan. Dr. Grigg seconded said motion; and

AYES: Johnson, Grigg, Fields, McNeely, Pfeufer, Pruitt, Rash, Santoni, Stephens, Tsumas

NOES: None

ABSTENTION: Williams

The motion passed by a vote of 11-0 to recommend denial of this request.

PROPOSED AMENDMENT – ZONING ORDINANCE: Mr. Warren presented the staff report:

SECTIONS: Article IX. Special Requirement Notes to the Table of Permitted Uses

SR 6. (F)

SR 6. Class A Mobile Home on Individual Lot

stucco or decorative block non load-bearing skirting or underpinning. **The foundation shall be constructed to the specifications of Volume VII of the NC Building Code for single family residential construction.**

STAFF COMMENTS: This verbiage has been interpreted as being in violation of the NC Regulation for Manufactured Homes, 2004 edition by Jim Long, Commissioner of Insurance. Therefore, the Inspections Department can no longer enforce this requirement. We would like to remove it from the Zoning Code to be in compliance with State law.

After further review, Dr. Grigg made a motion to recommend approval and Mr. Tsumas seconded said motion. All agreed. VOTES: 11-0.

MONTHLY COMMITTEE ASSIGNMENTS: Mr. Pruitt & Mr. Santoni volunteered to attend the February 21st Subdivision Review Committee meeting at 10:00am in the Old City Hall. Dr. Grigg, Mr. McNeely, and Mr. Pruitt volunteered to go on the site visit for next month's requests on Tuesday, January 20th.

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

Katrina Hewitt
Planning Support Specialist

Date Read and/or Approved