

IREDELL COUNTY PLANNING BOARD

The Iredell County Planning Board met on Wednesday, **June 6, 2007** at 5:00 p.m. & 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
Jerry Santoni
Thomas E. Stephens
Harry Tsumas, Jr.

STAFF PRESENT

Katrina Hewitt
Ron Smith
Steve Warren
Ricky Hurley
Rebecca Harper
Ben Stikeleather

MEMBERS ABSENT

Franklin Rash
Alan Williams

At this time, Chairman Fields called the meeting to order (5:00 p.m.) and stated the following rezoning requests have been WITHDRAWN:

Case No. 0706-3, Jerome Howard Property
Case No. 0706-7, Tsumas Family Limited Partnership Property
Case No. 0706-8, Shiloh Farms, Inc. Property

MINUTES: Mr. Tsumas made a motion to approve the 5/2/07 meeting minutes. Dr. Grigg seconded said motion and all agreed. **VOTES: 8-0.** *NOTE: Mr. McNeely was not present at this time.*

PROPOSED AMENDMENT TO ZONING ORDINANCE; AMEND SR31, RADIO, TELEVISION OR COMMUNICATION TRANSMISSION TOWERS – SUBMITTED BY: BENCHMARK CMR, INC.: Ms. Harper presented the staff report:

ORDINANCE: Zoning Ordinance

SECTION: SR 31 Radio, Television or Communication Transmission Towers

- a. Transmission Towers shall have a setback of one (1) foot for each one (1) foot in height of tower from all property lines and rights-of-way.
- b. No vehicles or materials shall be stored on the premises; and no offices shall be permitted.
- c. All buildings shall be setback at least twenty (20) feet from all property lines and shall be designed and landscaped with a buffer strip in such a way as to blend in with surrounding area.
- d. All structures shall be enclosed by a chain link fence at least eight (8) feet in height.
- e. Transmission Towers with a height of three hundred (300) feet or greater shall be subject to Board of Adjustment approval as a Special Use.

- f. Transmission Towers with a height of one hundred (100) feet or greater shall be designed and constructed to permit the capability for co-location of at least one additional wireless telecommunication use.
- g. Transmission Towers shall not be located within two thousand (2,000) feet of any other existing transmissions tower, unless concealed within a church steeple, farm silo, or other architecturally designed encasement.
- h. Transmission Towers shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport.

APPLICANT: Jessica Sick
 Benchmark CMR Inc.
 118 South Main Street
 Kannapolis, NC 28081

STAFF COMMENTS: A request was made by Benchmark CMR on behalf of their client to amend SR 31 concerning radio, television and communication towers. A copy of the request has been included with this staff report along with the proposed changes. The staff recommends in favor of the request as submitted.

Jessica Sick stated that they covered the text amendment thoroughly last month. Ms. Sick stated that they were changing the setback requirements by putting more pressure on the engineers to certify their tower fall radii. Ms. Sick stated she was present to answer questions from the Board. After further review by the Board, Dr. Grigg made a motion to recommend approval. Mr. Pruitt seconded said motion; and

AYES: Grigg, Pruitt, Fields, Johnson, Pfeufer, Stephens, Tsumas
 NOES: Santoni

The motion passed in favor. VOTES: 7-1 *NOTE: Mr. McNeely was not present at this time.*

REZONING REQUEST; SUSAN M. BROOKS PROPERTY, CASE NO. 0706-1: Ms. Harper presented the staff report:

OWNER/APPLICANT: Susan M. Brooks
 131 Twilight Lane
 Statesville, NC 28677

LOCATION: 161 Triplett Road, more specifically PIN# 4773-62-3066. Directions: US Highway 70 east, right on Triplett Road, on the left at the corner of the new section of US Highway 70.

REQUESTED ACTION: Rezone the property from RA, Residential Agricultural Zoning District to GB, General Business Zoning District.

PROPOSED USE: Produce market.

SIZE: The property is 1.3 acres.

EXISTING LAND USE: Vacant.

SURROUNDING LAND USE: Residential, agricultural, and vacant.

WATERSHED REGULATIONS: This property is not located in a watershed.

TRAFFIC: According to the 1993 Iredell County Thoroughfare Plan, the capacity for this stretch of US Highway 70 is 10,500 vehicles per day and 8,000 for Triplett Road. In 2005, the estimated daily traffic count

for US Highway 70 was 11,000 vehicles per day and 1,400 vehicles per day for Triplett Road. The State is currently in the process of re-routing and widening US Highway 70. This property will have frontage on the new stretch of US Highway 70. The proposed capacity of the new US Highway 70 route is 26,000 vehicles per day.

ZONING HISTORY: This property has been zoned RA since County-wide zoning went into effect in 1990. The property that adjoins this lot was rezoned to GB on December 4, 2006. The property to the north was rezoned to GB in 1996 and 2004.

STAFF COMMENTS: The area is in the midst of transition due to new highway construction slated for completion next summer. Approximately 200 linear feet of the applicant's property fronts the new US Highway 70 right-of-way. It is anticipated by staff that owners of frontage properties will continue to request zoning changes in anticipation of the road improvements. This particular tract also has frontage on Triplett Road. The US 70 East Corridor Plan identifies this area as suitable for future industrial expansion. The applicant has chosen the GB District classification which allows many business uses including some light industrial uses. A GB District lies to the north, across the new Highway 70 right-of-way and to the south and east of this property. Planning staff recommends in favor of this request. This property is more suitable for future GB uses based on the US 70 East Corridor Plan, the road improvements, and the nearby zoning districts and land uses.

Susan Brooks stated that she might have a produce stand there one day. There was no one else present to speak in regard to this request. After further review, Dr. Grigg made a motion to recommend approval of the zoning map amendment and to advise that it is consistent with the US 70 East Corridor Plan. Mr. Pruitt seconded said motion and all agreed. **VOTES: 8-0.** *NOTE: Mr. McNeely was not present at this time.*

REZONING REQUEST; EJJ HOLDINGS LTD, THE GREAT BRITANNY TRADING COMPANY, MOORESVILLE CHURCH OF GOD SEVENTH DAY INDEPENDENT, PIEDMONT LANDCO LLC, AND SUPERIOR PROPRIETIES OF IREDELL LIMITED PARTNERSHIP PROPERTIES, CASE NO. 0706-2: Mr. Hurley presented the staff report:

AGENT: Bedford Cannon

LOCATION: The property is located at 1103, 1109, 1113, 1119, and 1125 Charlotte Highway, being in the eastern quadrant of the interchange for I-77 and Charlotte Highway in Troutman, NC; more specifically identified as PIN#'s 4750-02-1706, 4750-02-3822, 4750-02-2750, 4750-02-2529, 4750-02-4696, 4750-02-1496, 4750-02-2337, 4750-02-4497, 4750-02-4566, 4750-03-6051, 4750-03-5271, 4750-03-9924, 4750-03-7946, 4750-03-1554, 4750-03-2267, & 4750-02-2337. **Directions:** Take Charlotte Highway south from Troutman; property on left approximately ½ mile south of the existing truck stop.

REQUESTED ACTION: Rezone subject parcels from RA, GB-CUD, and NB to HB-CUD, Highway Business Conditional Use District.

- ♣ Apply Roadway Protection Overlay (RPO) standards; which include signs, landscaping, and access restrictions.

PROPOSED USE: Any and all HB uses.

SIZE: 37.84 acres.

EXISTING LAND USE: Single Family Residential, vacant, church.

SURROUNDING LAND USE: Vacant residential land is adjacent to the northeast, south, and east, with vacant commercial land to the north and west of the requested property.

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

TRAFFIC: This section of Charlotte Highway had an average of 11,000 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 majority of the subject parcels were 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. Parcels adjacent to west and north of the requested site have been rezoned as Highway Business and General Business Conditional Use, with the most recent rezoning approved in May of 2007 for GB-CUD to allow for possible future commercial development.

STAFF COMMENTS: The Exit 42 Small Area Plan identifies this area as suitable for future interchange commercial development. The applicant has chosen the HB-CUD classification, which allows for a greater range of commercial uses and is similar to other nearby commercial properties. Adjacent parcels to the north are zoned commercial by the County or zoned Highway Business by the Town of Troutman. The majority of parcels abutting this tract to the west, south, or across Charlotte Highway are zoned Highway Business or General Business CUD. Although this request is consistent with the Iredell County Exit 42 Small Area Plan and creates a unified zoning classification along this portion of Charlotte Highway, Staff has some concerns after meeting with Town of Troutman representatives regarding this rezoning request. According to the Town of Troutman, water and sewer capacity has not been allotted by the Board of Alderman to this site. Additionally, the Troutman Exit 42 Plan identifies the northern portion of the requested site as future interchange commercial; however, the southern half is coded as either undesignated, office, or medium density residential uses. Staff feels that in light of the new information, past zoning history of Exit 42, and differences of adopted land use plans, a recommendation for approval, with reservations by staff should be noted. Any future commercial development that requires town utilities will need to approach the Town of Troutman and meet all criteria for such utility extension.

Bedford Cannon, Attorney, stated this was a down-grade use and there is commercial zoning on three sides of this property and it is consistent with the Land Use Plan. Chairman Fields asked Mr. Cannon if he was aware of the requirements from the Town of Troutman and Mr. Cannon stated they were and would deal with them at the appropriate time. Mr. Cannon stated that it was his understanding that there was water and sewer physically to the property.

Emily Jackson, Contracted Planner for the Town of Troutman, stated that there is a line there but no approval from the Town of Troutman to connect and that there has been no application submitted. Mr. Tsumas asked Ms. Jackson about the overlay plan and Ms. Jackson stated that the 2000 Land Use Plan shows this northern portion of this area as interchange commercial and other portions in an office/institutional and low density node. Ms. Jackson stated that a small portion is not even in the Town of Troutman's Land Use Plan. Mr. Tsumas stated that it looked like approximately 2/3 of the property met your Land Use Plan and 1/3 doesn't. Ron Smith stated that the Town of Troutman has entered into a contract July 1st to do an updated Land Use Plan which includes this area.

Chairman Fields stated that he sees this as two different things; that this is a rezoning request before the County and it meets the requirements under the County Zoning Ordinance and the applicant's attorney has acknowledged that they understand in order to get water & sewer and permitting that they have to deal with the Town of Troutman. Chairman Fields stated that he considered that a secondary issue that the property owner will deal with later. Ms. Jackson stated that they were just trying to do a little cooperative planning and it was more just for information. Chairman Fields stated that the Board appreciates the Town's input.

Howard Bryan stated that there is an existing 8" water line along Highway 21 completely across this property within a right-of-way and this property is in the RPO. Mr. Bryan stated that the 8" sewer line is on this property and it has been in operation for the past several years.

THOSE SPEAKING IN OPPOSITION:

Linda Overcash stated that her and her husband (Dennis) own Overcash Angus & Livestock near this property and she's been hearing a lot about water & sewer but nothing about paving roads or all the

wildlife being pushed onto surrounding properties and also natural habitats left on property. Chairman Fields stated that this Board doesn't address roads that NCDOT handles that. Mr. Hurley explained the buffering requirements from the zoning ordinance and stated the buffering would be addressed during the commercial site plan review process. Ms. Overcash stated that she would just like to see some responsibility to the neighborhood and the farms in the area because they are not going anywhere.

Ronald Tevepaugh, adjoining property owner, commented on the possibility of a sink hole because of the runoff from the property.

After further discussion, Mr. Pruitt 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. Dr. Grigg seconded said motion and all agreed. **VOTES: 8-0.** NOTE: Mr. McNeely was not present at this time.

Mr. McNeely was present for the following cases:

REZONING REQUEST; WILLIAM & TERESA MILLER, BOBBY & MARY KARRIKER, DORIS BOSTIAN, AND ROBERT L. & MARY B. KINSER PROPERTIES, CASE NO. 0706-4:

Ms. Harper presented the staff report:

<u>OWNERS/APPLICANTS:</u>	William & Teresa Miller 165 Big Forest Drive Statesville, NC 28677	Doris Bostian PO Box 325 Mt. Mourne, NC 28127
	Bobby & Mary Karriker PO Box 235 Mt. Mourne, NC 28127	Robert & Mary Kinser 708 Mills Garden Road Statesville, NC 28625

LOCATION: 159, 169, & 177 Wilcox Karriker Lane, more specifically PIN#s 4774-70-8244, 4774-80-3459, and a portion of 4774-80-2250 and 4773-99-1839. Directions: US Highway 70 east, right on Barry Oak Road, right on Mills Garden Road, on the right before Elmwood Road.

REQUESTED ACTION: Rezone the properties from R-20, Single-Family Residential Zoning District to RA, Residential Agricultural Zoning District.

PROPOSED USE: Double-wide manufactured home and residential.

SIZE: The total acreage of the properties is 83.007 acres; with approximately 65 acres to be rezoned to RA.

EXISTING LAND USE: Vacant.

SURROUNDING LAND USE: Residential, agricultural, and vacant.

WATERSHED REGULATIONS: This property is not located in a watershed.

TRAFFIC: According to the 1993 Iredell County Thoroughfare Plan, the capacity for Barry Oak Road is 8,000 vehicles per day. In 2005, the estimated daily traffic count was 420 vehicles per day.

ZONING HISTORY: This property has been zoned RA & R-20 since County-wide zoning went into effect in 1990.

STAFF COMMENTS: The property is currently zoned for single-family residential uses. The proposed use in the County Land Use Plan is residential as well. Rezoning from single-family residential to residential agricultural should not have an impact on traffic since the minimum lot size will remain the same. Based on the consistency with the County Land Use Plan, existing RA zoning surrounding the properties, and lack of impact from traffic, the Planning staff recommends in favor of this request.

Dr. Grigg asked if this had been rezoned to R-20 by non-owner petition and Ms. Harper stated that this wasn't part of a non-owner rezoning that it came into effect in the county-wide zoning process in 1990. Mr. Smith stated that there were a few large R-20 areas mainly around Statesville and this actually borders the Statesville zoning along Bell Farm Road that was done in 1990.

Chairman Fields stated on the proposed use it lists "double wide manufactured home" and wonder if this was for one or more. Ms. Harper explained one of the applicants had pulled a permit last year before the lot was subdivided and the permit showed it was zoned RA (portion of the original tract was zoned RA). Ms. Harper stated that somewhere in the process of the permit being issued and the lot being cut out it was discovered the home site was actually back in the R-20 zoning district. Ms. Harper stated that the applicant has always proposed to place one double wide on the property. Ms. Harper stated that the permit expired and when the applicant came in to reapply that is when the error was discovered. Ms. Harper stated the reason they are asking for additional properties to be part of this request was to eliminate them leaving a gap with one lot being zoned RA all by itself. Mr. Smith stated that in the past with non-owner petitioned areas that we have allowed tracts to back out of R-20 only if they are on the edges.

Chris Shoobridge, Realtor, stated that he was representing the applicant and had a few points for the Board to consider regarding rezoning this property and submitted a handout to the Board (*see attachment in file*):

- When the Karrikers bought their acreage on Mills Garden Road the tax card indicated that the zoning of the acreage they bought from the Fraziers was RA with no mention of R20 zoning.
- No other R20 zoned property extends to Mills Garden Road.
- The planned location of the doublewide home in question will not be visible from any of the adjoining property beyond that was bought by the Karrikers.
- All of the acreage bought by the Karrikers was deed restricted against single wide mobile homes.
- None of the adjoining property owners they've talked to is opposed to the rezoning.

Mr. Shoobridge stated the applicant just desires to put one double wide on one tract of land. Chairman Fields questioned why they were asking to rezone the other parcels and Mr. Shoobridge stated he was not sure. Ms. Harper explained that the staff suggested they not try to rezone one small tract in the middle of surrounding R-20 zoning and instead to rezone the other parcels to be consistent.

At this time, Chairman Fields declared a five minute recess.

Chairman Fields stated that the property owners have conversed and have decided to proceed with the proposal as presented.

Don Nellis, adjoining property owner, stated that he rather see the single tract be rezoned instead of the four parcels totaling over 60 acres.

Teresa Miller stated that she was the one wanting the double wide and they were not proposing a mobile home park. Mr. Tsumas asked Ms. Miller if she was aware that she could have rezoned to RA(CUD) for the one mobile home for a family member and Ms. Miller stated that she was not informed of that type of zoning. Ms. Miller stated that Mr. Hurley informed her that she might as well rezone it all.

After further discussion, Dr. Grigg made a motion to recommend approval of the zoning map amendment and to advise that it is consistent with the County Land Use Plan. Mr. Pruitt seconded said motion; and

AYES: Grigg, Pruitt, Johnson, McNeely, Pfeufer, Santoni

NOES: Fields, Stephens, Tsumas

The motion passed in favor. VOTES: 6-3.

At this time, Chairman Fields declared a break (6:45 p.m.).

Chairman Fields reconvened the meeting (7:00 p.m.).

EXPANSION OF A NONCONFORMING USE; CASE FARMS LLC (TABLED FROM LAST MONTH): Mr. Hurley presented the staff report:

OWNER/APPLICANT: Case Farms, LLC
385 Pilch Road
Troutman, NC 28166

LOCATION: The property is located at 385 Pilch Road, Troutman, NC; more specifically identified as PIN# 4751-25-7169. Directions: Take South Main Street from Troutman; turn left onto Oswalt Amity Road; turn left onto Pilch Road; property on right at intersection of Pilch Road and Pear Tree Road.

REQUESTED ACTION: Allow an expansion of an existing non-conforming office use within a Residential Agricultural District by 8,000 square feet, for a total of 12,787 square feet of new and existing office space.

PROPOSED USE: Corporate office.

SIZE: 16.36 acres.

EXISTING LAND USE: Corporate office & vacant hatchery.

SURROUNDING LAND USE: Residential uses are adjacent to northeast and west of site, vacant land to north, south and east.

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

TRAFFIC: This section of Pilch Road had an average of 930 vehicles per day in 2004; the 1993 Iredell County Thoroughfare Plan does not identify the carrying capacity for Pilch Road, but the estimated carrying capacity is 8,000 vehicles per day.

ZONING HISTORY: The subject parcel was zoned RA when countywide zoning took effect in 1990. The entire surrounding area is zoned for residential uses with the nearest commercial zoning approximately 4,000 feet west along I-77. The site was formerly used as a chicken hatchery operation within the existing 29,000 square foot building. An associated truck wash facility, parking areas and two residences also exist. The current use consists of one converted residence of 4,787 square feet for office use by approximately 20 employees of Case Farms. This request proposes an expansion to the existing converted residence that will allow an additional 8,000 square foot for office uses. The remainder of the facilities cannot be occupied by commercial or industrial uses and are unable to be re-opened without a change in the current zoning classification of Residential-Agricultural. The only permissible uses are those outlined in Section 8.3 of the Iredell Zoning Ordinance, primarily residential single family uses and accessory buildings.

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

- 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.

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. Item D is evaluated based upon the submitted site plan showing the existing facilities and proposed expansion. Staff is recommending for the request and feels that based upon the submitted site plan and history of the operation that an expansion would not negatively impact adjoining residential properties and meets all criteria for an expansion of a non-conforming use. The expansion of non-conforming use is preferred to a rezoning request since specific issues can be addressed relating to size of proposed facility, intended use, possible impacts on surrounding neighborhood, avoidance of spot zoning issue, and any future expansions would have to be evaluated by the Board.

Mr. Hurley stated that this request was tabled from last month in order for the staff to get an interpretation from the County Attorney in regard to what constituted a nonconforming use whether it applied to the entire tract and all structures that occupied the site versus each individual structure. Mr. Hurley stated that Bill Pope did submit an interpretation (*see attachment in file*).

Mike Popowycz, Applicant, stated the company's law firm has not found anything contrary with the findings of Mr. Pope. Mr. Popowycz stated as he stated last month they just need the additional office space for their employees and the current facility is not adequate. Mr. Popowycz stated they have no plans for the hatchery building.

There was no one else present to speak in regard to this request. The Board had further discussion about the legal opinion on the nonconforming use. Dr. Grigg stated that she visited the site and felt that it would possibly be "spot zoning" if rezoned.

After further discussion, Mr. McNeely made a motion to recommend approval of the request for Expansion of a Nonconforming Use and to advise that it meets the criteria of Section 4.4 of the Zoning Ordinance. Dr. Grigg seconded said motion; and

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

NOES: Fields

The motion passed in favor. **VOTES: 8-1.**

REZONING REQUEST; ALLINE MCCALLISTER & CONNIE BLANKENSHIP AND ROBERT BLANKENSHIP PROPERTY, CASE NO. 0706-5: Mr. Hurley presented the staff report:

OWNER: Alline McCallister & Connie Blankenship, P O Box 544, Bradshaw, WV 24817
Robert Blankenship, 248 Shumaker Drive, Statesville, NC 28625

AGENT: Carrie Taylor & A. W. Myers (REMAX at the Lake) 121 Rolling Hill Rd, Mooresville, NC

LOCATION: The property is located at 3316 Salisbury Highway in Cleveland, NC; more specifically identified as PIN# 4783-11-6354. **Directions:** Take Salisbury Highway east from Statesville; property on right approximately ½ mile east of Knox Farm Road.

REQUESTED ACTION: Rezone subject parcel from RA, Residential Agricultural to RO-CUD, Residential-Office Conditional Use District and amend the US 70 East Corridor Plan.

PROPOSED USE: Any RO use **EXCEPT** for Mobile Home Park, Sewage Treatment Plant, Water Treatment Plant, and Wireless Telecommunications.

SIZE: 4.7 acres.

EXISTING LAND USE: Single Family Residential.

SURROUNDING LAND USE: Residential uses and vacant land are adjacent to east, west, and south of site, an industrial use lies directly across Salisbury Highway to the north.

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

TRAFFIC: This section of Salisbury Highway had an average of 11,000 vehicles per day in 2005. According to the 1993 Iredell County Thoroughfare Plan this section of Salisbury Highway has a carrying capacity of 10,500 vehicles per day.

ZONING HISTORY: The subject parcel was zoned RA when countywide zoning took effect in 1990.

STAFF COMMENTS: The US 70 East Corridor Plan identifies this area as suitable for future residential development. The applicant has chosen the R-O CU District classification, which allows for a limited range of office and residential uses, such as professional offices, single family and multi-family residences. All adjacent parcels south of Salisbury Highway are zoned residential and staff is recommending against this request since it is inconsistent with the US 70 East Corridor Plan. The US 70 East Corridor Plan intends to focus new commercial development at strategic intersections to minimize strip commercial development and focus industrial uses in areas already served by water and sewer utilities. This request was previously heard at the March 2007 Planning Board meeting for General Business zoning request that was withdrawn by the applicant during the meeting.

A.W. Myers, REMAX, stated that they were trying for the best and highest use of this property and that since this property is located on a major highway it is not suitable for residential use.

There was no one else present to speak in regard to this request.

Dr. Grigg made a motion to amend the US 70 East Corridor Plan. Mr. McNeely seconded said motion; and

AYES: Grigg, McNeely, Johnson, Pfeufer, Pruitt, Stephens, Tsumas

NOES: Fields, Santoni

The motion passed in favor. **VOTES: 7-2.**

Dr. Grigg made a motion to recommend approval of the zoning map amendment and to advise that it is consistent with the US 70 East Corridor Plan. Mr. Pruitt seconded said motion; and

AYES: Grigg, Pruitt, Johnson, McNeely, Pfeufer, Stephens, Tsumas

NOES: Fields, Santoni

The motion passed in favor. **VOTES: 7-2.**

REZONING REQUEST; MICHAEL & KRISTINE PEEBLES PROPERTY, CASE NO. 0706-6:

Ms. Harper presented the staff report:

OWNERS/APPLICANTS: Michael L. and Kristine S. Peebles

1355 Oakridge Farm Highway
Mooresville, NC 28115

LOCATION: 1349 Oakridge Farm Highway, more specifically a portion of PIN# 4677-57-9538. Directions: Highway 150 east (Oakridge Farm Highway), the property is on the left just past the Landis Highway split.

REQUESTED ACTION AND CONDITIONS: Amend the Land Use Plan and rezone the portion of the property that is NB, Neighborhood Business Zoning District to GB CUD, General Business Conditional Use Zoning District with the condition that the following uses only be permitted:

- Bed & Breakfast
- Automobile parking (commercial)
- Automobile rental or leasing
- Automobile repair and service (excluding storage of wrecked or junked vehicles),
- Automobile storage
- Automobile towing and storage services
- Repair shops not classified elsewhere
- Truck and utility trailer rental, sales, and leasing (light)
- Automobile and truck dealers, new and used
- Automobile parts and supply store
- Boat dealers, sales and repair
- Garden center or retail nursery
- Recreational vehicle sales and service
- Tire dealers and service

PROPOSED USE: Auto repair, tire and service center is proposed.

SIZE: The property is 3 acres, with approximately half being rezoned from NB to GB.

EXISTING LAND USE: Residential.

SURROUNDING LAND USE: Residential and commercial.

WATERSHED REGULATIONS: This property is located in the Back Creek WS II-Balance of Watershed.

TRAFFIC: According to the 1993 Iredell County Thoroughfare Plan, the capacity for this stretch of Highway 150 is 10,500 vehicles per day. In 2005, the estimated daily traffic count was 5,100 vehicles per day.

ZONING HISTORY: This property has been zoned NB since County-wide zoning went into effect in 1990. The property to the west that is zoned HB CUD was rezoned in February 2006. The property to the west that is zoned GB has been designated as such since 1990 as well.

STAFF COMMENTS: The property is currently zoned for Neighborhood Business uses. Although the property is not directly located within the commercial node designated on the County Land Use Plan, the property was initially zoned for commercial uses when county-wide zoning went into effect. Existing commercial uses in the area include an automobile repair shop, motorcycle sales, flag/ice cream store, and a trailer storage yard. Traffic counts are less than half of the road capacity. Therefore, the change should not negatively impact the area. There is already a trend to convert residential units to commercial with the conversion of a residence to a flag/ice cream store. Due to its location near the intersection of two major highways, current zoning designation for commercial uses, proximity to a proposed commercial node on the County Land Use Plan and existing commercial properties, trend for conversion from residential to commercial uses, and lack of potential impact on traffic, the Planning staff recommends in favor of this request.

Mike Peebles stated he owned Peebles Automotive & Towing Service since 1989 and he proposes to upgrade his business by building a new facility which is located next door to where he currently lives. Mr. Peebles stated the building would be approximately 5,000 – 6,000 square feet and be located 100' off Highway 150. Mr. McNeely questioned the type of buffering and Ms. Harper explained that buffering would be required beside any of the residentially zoned property. Mr. Peebles stated that their impound yard would be to the rear of the building. Mr. Peebles further

explained what he did at his business. The Board had questions about some of the permitted uses in this Conditional Use District.

Mr. Peebles stated that they do store some wrecked vehicles for a short period of time. Mr. Smith stated then they possibly need to strike (excluding storage of wrecked or junked vehicles) from the fourth permitted condition. After lengthy discussion, Chairman Fields stated that he isn't necessarily opposed but felt the list of permitted uses needed to be pared down and possibly table this request for clarification. Mr. Peebles agreed to table his request.

Mr. Stephens made a motion to table this request to clarify the conditions. Ms. Pfeufer seconded said motion and all agreed. **VOTES: 9-0.**

REZONING REQUEST; KENT DEVELOPMENT COMPANY PROPERTY, CASE NO. 0706-9:

Ms. Harper presented the staff report:

OWNERS: Kent Development Company
2290 Salisbury Highway
Statesville, NC 28677

AGENT: Edmund Gaines with Homesley, Jones, Gaines & Dudley
216 E. Broad Street
Statesville, NC 28677

LOCATION: 2290 Salisbury Highway, more specifically PIN# 4763-04-7670. **Directions:** US Highway 70 east, on the corner of Old Warren Drive.

REQUESTED ACTION AND CONDITIONS: Change the conditions on an existing CB CUD Zoning District **removing the following conditions:**

- Access onto Old Warren Drive will be restricted to emergency and service vehicles only, with associated signage to this effect posted on site.
- Public access to this property will be limited to the east side of the parcel onto Salisbury Highway.
- Fencing will be installed as a buffering device between Old Warren Drive and both entrances to the gymnasium parking area.

And adding the following condition:

- Reasonable buffering will be required between the west line of the property on Old Warren Drive but not so as to restrict access from Old Warren Drive to both entrances to the old gymnasium parking area.

PROPOSED USE: Daycare center, Psychological Evaluation Center for people with disabilities and recreational facilities for people with disabilities.

SIZE: The property is 9.27 acres.

EXISTING LAND USE: Business and office.

SURROUNDING LAND USE: Residential and industrial.

WATERSHED REGULATIONS: This property is not located in a watershed.

TRAFFIC: According to the 1993 Iredell County Thoroughfare Plan, the capacity for this stretch of Highway 70 is 10,500 vehicles per day. In 2005, the estimated daily traffic count for US Highway 70 was 18,000 vehicles per day. The State is currently in the process of re-routing and widening US Highway 70, which begins at this lot.

ZONING HISTORY: This property was rezoned from RA to CB CUD on February 21, 2006. Prior to that the property had been zoned Ra since county-wide zoning took effect in 1990. The property to the north has been zoned M-2 since 1990. The properties to the east were zoned HB in 1991 and M-1 in 1995.

STAFF COMMENTS: This property was proposed for rezoning in the Fall of 2005. The owner-applicant is seeking rezoning of the former Wayside School property from RA to CB-CUD. The US 70 East Corridor Land-Use Plan proposed maintaining this property in a Public & Institutional capacity. The Plan further states that “The former Wayside School building may be sold for a use not permitted in the RA district. It is important that if rezoning is required for the future use of this site that the rezoning be in the conditional use format in order to ensure compatibility with the surrounding residential area.” The district and restrictions proposed originally were in keeping with the principles of the US 70 East Land-Use Plan. Such conditions help the property blend with the residential character of the area located on the southern side of Highway 70. Changing those conditions would not be consistent with the plan. Therefore, staff recommends against the request.

Chairman Fields asked if Old Warren Drive was on this property or on the adjoining property. Ms. Harper presented the Board with a site plan showing the location of Warren Drive.

Lanie Craven, Applicant, stated that they need the use of Old Warren Drive to access the property and that the restrictions hurt the use of the property. Mr. Craven stated that they pursued a daycare in one of the small classroom buildings but they couldn't meet the state's restriction on how close the children can be dropped off to the building. Mr. Craven stated that the parking is on the opposite side of the building.

Mr. Tsumas asked if they had given any consideration in dedicating a roadway to the property by NCDOT and Mr. Craven stated that the existing septic fields prevent them from accessing the property near Old Warren Road. Chairman Fields stated the dilemma was that Old Warren Road is a private road and this issue was addressed when they came before the Board previously and that's why the condition was placed on the rezoning. Mr. Craven stated that there have been changes in the circumstances since they purchased the property and they are having trouble meeting the conditions.

Mr. Tsumas asked if there was a possibility of moving the septic field to the rear near the baseball field in order to make room for a new roadway on the front side of the property. Mr. Craven stated he still didn't see how they would avoid crossing over septic lines in the rear.

Ed Crew, adjoining property owner, stated that he was speaking on behalf of the neighbors (Mary Warren, Greg & Stephanie Mason, and Randy & Lorna James) and himself. Mr. Crew had a prepared statement that he handed out to the Board (*see attachment in file*). Mr. Crew stated that they were all opposed to any new changes proposed by the developer. He further stated that the conditions were placed on this property over fifteen months ago and the developer has not fully complied with the conditions set forth by the Board of Commissioners. Mr. Crew stated that it has only been in the last sixty days that the developer started to comply after code enforcement started issuing citations. Mr. Crew addressed other issues from his handout (*see attachment in file*).

After lengthy discussion, Mr. Pruitt made a motion to recommend denial of the zoning map amendment and to advise that it is inconsistent with the US 70 East Corridor Plan. Mr. McNeely seconded said motion; and

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

NOES: Johnson

The motion passed. VOTES: 8-1.

MONTHLY COMMITTEE ASSIGNMENTS: Mr. Pruitt & Mr. Tsumas volunteered to attend the June 20th Subdivision Review Committee meeting at 10:00am in the Building Standards Center. Dr. Grigg & Mr. Pruitt volunteered to go on the site visit for next month's requests on Tuesday, June 26th.

OTHER: Chairman Fields welcomed back Ron Smith, Director of Planning & Development. Chairman Fields also stated that tonight was Mr. Hurley's last meeting as he has taken a new position with the Town of Boone.

ADJOURNMENT: There being no further business, Chairman Fields declared the meeting adjourned at 9:45 p.m.

Katrina Hewitt
Administrative Assistant II

Date Read and/or Approved