

IREDELL COUNTY PLANNING BOARD

The Iredell County Planning Board met on Wednesday, November 2, 2005 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
Franklin Rash
Jerry Santoni
Thomas E. Stephens
Harry Tsumas, Jr.
Alan Williams

STAFF PRESENT

Alaina Dillard
Richard McHargue

MEMBERS ABSENT

None

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

MINUTES: Dr. Grigg made a motion to approve the 10/5/05 meeting minutes. Mr. Williams seconded said motion and all agreed. VOTES: 10-0.

REZONING REQUEST; FRIENDSHIP HOLDING CORPORATION INC. PROPERTY, CASE NO. 0511-1 & AMEND THE IREDELL COUNTY LAND USE PLAN : Mr. McHargue presented the staff report:

<u>OWNER:</u>	Friendship Holding Corp., Inc. 1477 Friendship Road Statesville, NC 28625	<u>APPLICANT:</u>	Karen A. Schulz 1477 Friendship Road Statesville, NC 28625
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LOCATION: West and South of 1025 Tomlin Mill Road in Statesville, NC; more specifically identified as PIN# 4749-93-2604 and a **portion** of PIN # 4749-93-2446. **Directions:** North from Statesville on I-77, take Tomlin Mill Road exit. Turn left and cross I-77 overpass. Property on left to the west and south of Citgo Station.

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

PROPOSED USE: Commercial (restaurant on subject property fronting on Tomlin Mill Road with septic lines to be located on rear parcel, and extended travel-through area for the adjacent Citgo station, allowing traffic to exit onto Lentz Road).

SIZE: 2.6 acres total. (Road-front parcel is approximately 1 acre; subject portion of the back property is approximately 1.6 acres)

EXISTING LAND USE: Vacant.

SURROUNDING LAND USE: Commercial, Vacant, and Residential.

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

TRAFFIC: The nearest section of Jennings Road had 3,000 vehicles per day according to NCDOT's 2001 traffic data (the most recent available); however the subject properties are situated on Tomlin Mill Road near an I-77 interchange that serves as access to and from North Iredell High School.

ZONING HISTORY: The subject properties have been zoned RA since countywide zoning took effect in 1990, with the exception of the HB portion of PIN# 4749-93-2446 (directly behind the Citgo station); this portion was rezoned in May 2003 and the Land Use Plan amended accordingly.

STAFF COMMENTS: This request would enable the applicant to submit a site plan for approval to construct and operate a family-type restaurant on PIN#4749-93-2604 (the parcel fronting Tomlin Mill Rd). However, due to Environmental Health regulations the applicant will need the majority of the rear property solely for the restaurant's septic drain field and, according to the applicant, this available space will limit the maximum number of seats in the restaurant to 56; at the same time, this means there would be little to no chance of other HB structures to be located on this back parcel which adjoins agricultural and residential properties. The HB designation would enable these properties to provide an enhanced level of conveniences for a community that presently must travel further distance to access such needs. The area directly across Tomlin Mill Road is already zoned GB and is presently occupied by Piedmont Farm Systems. An extension of the Land-Use Plan's commercial designation to cover the subject parcels would thus seem logical for reasons of community accessibility and the current pattern of development in this vicinity. Staff therefore recommends in favor of the request.

Karen Schulz, Applicant, stated that she was before this Board two years ago when they purchased the property where the convenience store is located and it has always been their long term goal to operate service based businesses for the Olin community. Ms. Schulz stated that they have had great success with their diesel and gas station/convenience store and now feel the community needs food service. She explained what they proposed and that the restaurant will have 65 seat capacity and they have met with the health dept. to get their requirements for the septic system. Ms. Schultz stated that she proposed to put the septic system in the rear of the property (see site plan). Ms. Schultz stated that they have already cleaned up the rear property to help respect the concerns of the neighboring lot. Ms. Schultz also stated that the companies across the road are in favor of this request.

Mr. Tsumas asked if she planned to tie all this property together as one development and Ms. Schultz stated that she planned to operate it all together. Ms. Johnson asked what would the hours of operation be and Ms. Schultz stated the hours would be the same as the convenience store. Ms. Johnson asked about the house for sale beside this property and Ms. Schultz stated they placed a bid to purchase the house but their offer was turned down.

Richard Novak stated he was a silent business partner with Ms. Schultz and that he was present to support this rezoning.

After further questions and review by the Board, Dr. Grigg made a motion to recommend amending the Land Use Plan. Mr. Williams seconded said motion and all agreed. VOTES: 10-0.

Mr. Williams made a motion to recommend approval of the rezoning and Mr. Rash seconded said motion. All agreed. VOTES: 10-0.

REZONING REQUEST; EJJ HOLDINGS LTD, JOHN T. & VIRGINIA T. FURR, ROBIN TEVEPAUGH HARKEY, JOHN V. & WANDA S. REDDEN, & SUPERIOR PROPERTIES OF IREDELL LIMITED PARTNERSHIP – PROPERTIES, CASE NO. 0511-2: Mr. McHargue presented the

staff report:

OWNERS:

John and Wanda Redden
P.O. Box 126
Mooresville, NC 28115

Superior Properties of Iredell, LP
P.O. Box 5339
Statesville, NC 28687

John T. and Virginia T. Furr
275 Bethel Church Road
Mt. Pleasant, NC 28124

Robin T. Harkey
116 Tennys Red Hill Lane
Troutman, NC 28166

EJJ Holdings, Ltd.
P.O. Box 5339
Statesville, NC 28687

AGENT: E. Bedford Cannon, Attorney-at-Law
140 E. Water Street
Statesville, NC 28677

LOCATION: 106, 112, and 116 Tennys Red Hill Lane and 137, 179, and 180 McAllister Hill Lane in Troutman; more specifically identified as PIN#'s 4750-03-4909; 4750-04-3472; 4750-04-6468; 4750-04-5520; 4750-04-0050; 4740-94-9154; and 4740-94-6175. Directions: South of Exit 42 on Charlotte Highway; property is accessed via McAllister Hill Lane on the east side of Charlotte Highway.

REQUESTED ACTION: Rezone subject parcels from RA, Residential Agricultural to HB, Highway Business District

PROPOSED USE: Commercial (retail and interstate-related businesses).

SIZE: 18.056 acres.

EXISTING LAND USE: Residential and Vacant.

SURROUNDING LAND USE: Commercial, Residential.

WATERSHED REGULATIONS: The subject parcels are not located within a watershed.

TRAFFIC: In 2003 there was an average daily traffic count of 11,000 vehicles per day on this stretch of Highway 21, with an approximate carrying capacity of 10,500 according to the NCDOT Thoroughfare Plan.

ZONING HISTORY: The subject parcels have been zoned RA since countywide zoning took effect in 1990.

STAFF COMMENTS: The property requested for rezoning is located near the Exit 42 interchange. It adjoins a strip of commercial property which fronts on Highway 21 and, due to patterns of commercial development along 21, this property is well-suited for Highway Business uses that will serve both the traveling public and nearby residential areas. Additionally, the subject properties are located within an Interchange Commercial node depicted on the Exit 42 Small-Area Plan. Staff therefore recommends in favor of the request.

Bedford Cannon, Attorney stated that he was representing the property owners. Mr. Cannon asked if the adjoining property owners could speak first and Chairman Fields stated that would violate procedure that the adjoining property owners had a right to hear the request from the applicant first.

Mr. Cannon stated that they have been there before with rezoning in the area and they continue to purchase some property for the proposed development. Mr. Cannon stated they are working with NCDOT to address the entrance to the property. Mr. Cannon also stated that Troutman water and sewer would serve this property.

Mr. Santoni asked how the people access this property and Howard Bryan, applicant, stated right now they access their properties by a gravel drive because there is no recorded right-of-way. Mr. Bryan stated after all these properties are combined they will have road frontage and work with NCDOT. There was further discussion about the right-of-way.

John Pinyan stated that he was representing his mother (Edith Pinyan, adjoining property owner). Mr. Pinyan stated that he was approached by Mr. Bryan about giving them an easement but was also told that Mr. Bryan wasn't interested in his property. Mr. Pinyan stated that they were opposed to the rezoning.

Paula Hobbs, adjoining property owner, stated that their well was on the Redden property and she worried they would close that well if the property were developed. Chairman Fields stated this Board could not address that question.

Marsha Pinyan, adjoining property owner, stated her concerns and would like to see the property stay farmland and will sell her property for a decent price.

Robin Harkey stated that she was one of the property owners requesting this rezoning but didn't want her property to be rezoned. Chairman Fields stated that she was part of the package deal and the Board was presented this request with her property part of the request.

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

Chairman Fields stated that they would put this rezoning request on hold until the end of the meeting.

PROPOSED AMENDMENT TO THE IREDELL COUNTY ZONING ORDINANCE; SECTION 1116, SIGNS PERMITTED WITHOUT PERMIT – (For Discussion Only): Mr. McHargue stated that under advice of legal counsel regarding a recent interpretation concerning regulatory authority over governmental signs, the County Manager's office has directed the Planning staff to make some proposed changes to the Sign Ordinance ensuring that Volunteer Fire and Rescue Departments' signs are exempt from Right-of-Way setback requirements.

Under the present code, such agencies' signs are allowed without issuance of a formal Zoning Permit, but they are still required to meet the 10-foot setback from the right-of-way. The proposed language below will eliminate this setback requirement. Please note that the Sign Ordinance is scheduled for a comprehensive review for revision by the Text Amendment subcommittee, but the immediate request can be handled by implementing the following revision to Section 11.16:

Current Language:

Section 11.16 Signs Permitted Without Permit

“The following signs and devices shall be permitted without the issuance of a Zoning Permit.”

Proposed Language:

Section 11.16 Signs Permitted Without Permit

“The following signs and devices shall be permitted without the issuance of a Zoning Permit **and are not required to meet Right-of-Way setbacks as required in Section 11.5.**”

At this time, Mr. Tsumas stated that he served as an alternate with the Board of Adjustment so he can explain why this has come to their attention. Mr. Tsumas stated that there was a volunteer fire department that placed their sign in the right-of-way setback. Mr. Tsumas stated this was not a temporary sign, but a large brick commercial sign. Mr. Tsumas stated that the Board of Adjustment denied the request to allow them to leave the sign where it was. Instead of following procedure and appealing the decision in court the volunteer fire department went to the Board of Commissioners. Mr. Tsumas stated that the Commissioners turn it down but then there was a request to look at it from a legal standpoint and they found a case where volunteer fire departments fall within this governmental grouping which allowed them to get a sign without a permit but it still doesn't say that they could place it in the right-of-way setback.

Mr. Tsumas stated that the government should set the example and government shouldn't be allowed to do what the public cannot do. Mr. Tsumas stated that he couldn't vote for this amendment. Ms. Johnson stated that she agreed with Mr. Tsumas' comments. Mr. McNeely stated that it's Shepherds VFD and that it would be an expensive undertaking to remove the sign because concrete would have to be torn up. Chairman Fields asked if the passage of this amendment was intended to cure this problem and Mr. Tsumas stated that it was in his opinion. Chairman Fields stated he felt this amendment is wrong. Mr. McNeely stated if we amend the ordinance after the Board of Adjustment denied the request it is a slap in the face to the Board of Adjustment. Chairman Fields stated that he has always been opposed to having an isolated situation and passing legislation to cure that problem that will impact other people and violate the spirit of the ordinance. Dr. Grigg stated that she also agreed with the comments being made and wondered if it makes a difference what this Board decides. Chairman Fields stated that the function of this Board is to vote as a group to do what we perceive to be what's best for the County without political influence.

After further discussion, the Board asked if they could make a recommendation since they have discussed the amendment and seem to be in agreement that they are opposed to the amendment. Mr. McHargue stated that the Board could make a recommendation if they are ready at this point.

Chairman Fields stated that he would entertain a motion if someone had one. Mr. Tsumas made a motion to recommend that the proposed amendment as written be denied because the sign ordinance should not be changed to insure that the volunteer fire departments or any governmental signs are exempt from the right-of-way setback in Section 11.16. Dr. Grigg seconded said motion and all agreed. VOTES: 10-0.

At this time, Chairman Fields stated they would reconvene **Case No. 0511-2:**

Bedford Cannon stated that she wanted to proceed with the request. Robin Harkey stated that she would remain with the others on this request.

After further discussion, Mr. McNeely made a motion to recommend approval and Mr. Tsumas seconded said motion. All agreed. VOTES: 10-0.

MONTHLY COMMITTEE ASSIGNMENTS: Dr. Grigg & Mr. Tsumas volunteered to attend the November 16th Subdivision Review Committee meeting at 10:00am in the Old City Hall.

Mr. McNeely, Mr. Santoni, and Mr. Williams volunteered to go on the site visit for next month's requests on Friday, November 18th.

ADJOURNMENT: There being no further business, Chairman Fields declared the meeting adjourned at 9:20 p.m.

Alaina Dillard/kh
Planning Staff

Date Read and/or Approved