

IREDELL COUNTY PLANNING BOARD

The Iredell County Planning Board met on Wednesday, October 1, 2008 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
Gene Mahaffey
Jeff McNeely
Kristi Pfeufer
Harold Pruitt
Jerry Santoni
Thomas E. Stephens

STAFF PRESENT

Rebecca Harper
Katrina Hewitt
Steve Warren

MEMBERS ABSENT

Harry Tsumas, Jr.
Alan Williams

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

MINUTES: Dr. Grigg made a motion to approve the 8/6/08 meeting minutes. Mr. Santoni seconded said motion and all agreed. **VOTES: 9-0.**

REZONING REQUEST; CASE NO. 0810-1: Ms. Harper presented the staff report ~

This is a request to amend the Iredell County Land Use Plan and rezone 4.07 acres at the corner of Perth Road and Knotty Pine Lane in Mooresville from RA, Residential Agricultural Zoning District to CB CD, Community Business Conditional District. The proposed use for the properties is to continue and expand the existing garden center, which is a legal non-conforming business. A conceptual site plan has been provided and is labeled Exhibit A. The proposed changes include the addition of a greenhouse onto the existing building, the expansion of the bulk material bins, the addition of a nursery area for potted trees, and moving an existing driveway to allow for better access for delivery trucks.

OWNERS: Perth Landscaping Supply LLC
1453 Perth Road
Mooresville, NC 28117

LOCATION: Perth Road and Knotty Pine Lane in Mooresville; more specifically identified as PIN #s 4649-07-2159, 4649-06-3917, 4649-06-3729, 4649-06-4990.

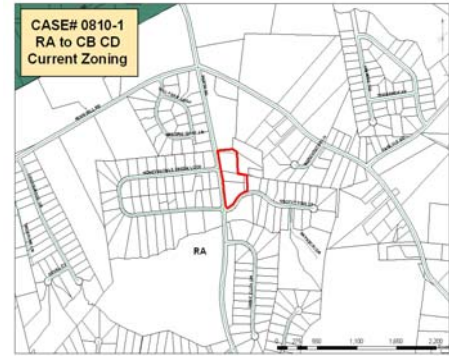
DIRECTIONS: South on Perth Road, on the left across from Honeysuckle Creek Loop.

SURROUNDING LAND USE: This property is surrounded by residential uses.

SIZE: The property is 4.07 acres.

EXISTING LAND USE: There is currently a legal non-conforming garden center operating on this property.

ZONING HISTORY: This property as well as the surrounding property has been zoned RA since county wide zoning was established. There was a request to rezone this property to HB CUD in 2007. The Planning Board recommended denial of the request by a vote of 11-0 on February 7, 2007. On March 6, 2007, Board of Commissioners held a public hearing on the request and denied the request by a vote of 3-2.



OTHER JURISDICTIONAL INFORMATION: The Planning staff has met with Town of Mooresville Planning Director, who felt this rezoning does not fall in line with their future plans for the area. This property lies currently within a Peninsula Conservation area on their 2030 Comprehensive Land Use Plan, which is intended to continue the pattern of low-density residential uses around the lake. The Town would like to see all commercial zoning remain in existing nodes on the Perth Road corridor at Highway 150 in Mooresville and near Autumn Leaf Road in Troutman.

OTHER SITE CHARACTERISTICS: This property is located in the Catawba/Lake Norman WSIV-PA water supply watershed. A maximum impervious are of 24 % impervious coverage is allowed under the low-density option. Although the applicant has not requested it, utilizing the high-density option would allow up to 70% impervious coverage in the area.

TRAFFIC: In 2006, the average number of vehicles per day on Perth Road was 8,900. The capacity for Perth Road is 13,800.

SCHOOLS: Because this is a commercial rezoning, there should be no implications on local schools.

FIRE MARSHAL: This proposal has been reviewed by the Iredell County Fire Marshal's Office. The only concern from their stand point is the location of straw and/or pine needles. These items cannot be stored inside the building. Although the plan does not show it, these items will be located inside a small trailer in one or two of the proposed bins. Based on this outdoor location, the Fire Marshal's Office has no issues with the proposal.

EMS: This proposal has been reviewed by the EMS Director and he had no problems or comments with regards to the request.

LOCAL: The applicant will have to provide a site plan to the Planning Department for review to develop the property. Zoning requirements such as parking and screening will be reviewed at such time. The current site plan has been reviewed for compliance with the Iredell County Watershed Ordinance. The Erosion Control division of the Planning and Development Department will review the plan for compliance with the County Soil Erosion & Sedimentation Control Ordinance if over ½ acre of soil is disturbed.

STATE: Other than building code, there should be no formal state agency review at this time.

FEDERAL: None at this time.

STAFF COMMENTS: Although this location has an existing legal non-conforming business, the Iredell County Land Use Plan identifies this area as suitable for residential uses. The future of the Perth Road corridor was studied in late 2007 and a Perth Road Study was adopted in January 2008 by the Iredell County Board of Commissioners. This area, along with others, was considered for future commercial land uses. However, it was decided that due to the close proximity of commercial nodes in Mooresville and Troutman, that no additional commercial areas were needed along the corridor. The plan specifically recommended that "petitions for nonresidential rezoning of properties within the County's jurisdiction will not be supported by the planning staff" and that "existing, legal non-conforming businesses should be allowed to remain, although rezoning is not recommended."

An alternative to a proposed rezoning is available to the applicant. Section 4.4 of the Iredell County Zoning Ordinance allows an owner to expand a structure related to a non-conforming use. This would allow for the greenhouse addition on the conceptual plan marked Exhibit A. However, this would not permit the applicant to expand on open uses of land that were not legally occupied by those uses when it became non-conforming. In this case, it would prevent the applicant from expanding the bulk material bins and from having the nursery as proposed on the conceptual plan marked Exhibit A. The arboretum would be permitted in either case.

The rezoning of the property does not fit into the future land use plans of the Town of Mooresville either since their plan calls for low-density residential development.

Based on lack of compliance with local land use plans, the Planning staff cannot support the proposed rezoning request.

PUBLIC INPUT MEETING: The Public Input Meeting was held on August 18, 2008 at Perth Landscaping at 1453 Perth Road. Approximately 16 people attended the meeting. Their questions pertained to the impacts on their property with regards to traffic, noise, lighting and condition of the ditch along Perth Road. Mostly the attendees seemed to be in favor of having the proposed changes take place. As a result of this meeting, additional conditions were added to the request concerning truck delivery times, signage, and screening along Knotty Pine Lane.

SITE REVIEW COMMITTEE: Jerry Santoni visited this site with the staff on September 16, 2008.

Dr. Grigg asked if a turn lane came into discussion and Ms. Harper stated that NCDOT didn't recommend a turn lane. Chairman Fields commented that the original site plan showed two curb cuts so if this plan is approved would the second curb cut not be in effect and Mr. Harper stated that was correct. Chairman Fields inquired about the proposed arboretum whether any of the trees would be allowed for sale and Ms. Harper stated that nothing would be purchased out of the arboretum.

ROBBIE GRAYSON, Applicant, stated a conditional zoning is not intended for securing speculative zoning for a proposal, but rather is based on a firm development proposal. A condition of this request would be that the property use remain a garden center as proposed. Ms. Grayson stated that Lake Norman Gardens is an integral part of the Perth Road Community and the landscape professionals that serve the Perth Road Community. The proposed rezoning will not add to the traffic, but divert members of the community from other more congested areas of Iredell County for similar product.

Ms. Grayson presented a power point presentation (*see attachment in file*) detailing the proposed improvements: (1) A second entrance on the north side of the property to safely move large trucks and trailers off Perth Road eliminating current safety concerns (2) the addition of a climate controlled greenhouse/nurseryman's structure adjacent to the current structure (3) installation of a water reclamation system for conservation and the control of runoff from above to lower lying area (4) the addition of an arboretum on the lower southwest corner of the property (5) a tree center in the southeast corner (6) the addition of bulk product cribs.

Chairman Fields questioned whether this was a specific site plan and Ms. Harper stated that this was a conceptual site plan but Ms. Grayson stated that she would make it part of her conditions as a site specific plan. Mr. McNeely asked about a time line and Ms. Grayson stated that the total cost would be close to \$300,000 and she planed to phase the plan and hoped to have it completed within eighteen months. Ms. Grayson continued to answer questions by the Board.

Chairman Fields stated to Ms. Grayson that she had put a lot of thought in this plan and she is currently operating as a non-conforming use but she is asking this Board to rezone this property in order to expand a non-conforming use. Chairman Fields stated that the Land Use Plan was just completed which doesn't support commercial use in this area so he asked Ms. Grayson why she felt she should be entitled. Ms. Grayson stated the use is not changing; just using more of their property. Ms. Grayson stated that they just wanted to improve their situation.

Chairman Fields called for a short break at this time.

THOSE SPEAKING IN OPPOSITION:

LISA CASH, adjoining property owner, questioned why they couldn't work with what's there now. Ms. Cash presented a power point presentation with photographs taken back in 2006 showing excessive amounts of trash and concrete slabs in the ditch along Perth Road. She also showed photographs of the property today showing where the mulch piles are located on top of where trash was buried on the property. Ms. Cash was concerned about the use of fertilizer/pesticides on this property that could get in the water table. Ms. Cash stated that a non-conforming use should not be increased in a residential area. She also stated that she didn't see the improvements being done within eighteen months when they have still not made the improvements from the beginning.

JUNETTA DLUGOKECKI stated that she was completely opposed to this proposal due to the recently adopted Land Use Plan which shows this area to remain residential. She stated that Perth Landscaping's truck made the mess in the ditch. Ms. Dlugokecki submitted photos that were taken in 2007 showing the water run off on the property.

JACK DAVIS stated that he lived on Knotty Pine Lane and he submitted photographs of the property before it was cleared. Mr. Davis stated that the County has let them down because this all started when he made a complaint about the property being operated as a dump and nothing was ever done. Mr. Davis stated that Ms. Harper has stated the property is currently in compliance and I disagree because it's not in compliance with the zoning, subdivision, watershed ordinances. Mr. Davis stated that even if the County says it's grandfathered in, all of the ordinances were in effect prior to the construction of the building. Mr. Davis stated that the neighbors across the road have a different view of the property than those of us on Knotty Pine Lane. Mr. Davis submitted additional photographs of the property taken yesterday in contrast to what the staff presented on the power point presentation.

JUNETTA DLUGOKECKI's son asked the Board to please enforce the current laws.

LORI ARROWOOD stated that she lived on Knotty Pine Lane and was opposed and felt the Land Use Plan was recently adopted to prevent commercial use in this area.

RONNIE FRUIA, adjoining property owner, stated that he lives directly behind this property and he was opposed. Mr. Fruia stated the arboretum was planned to be grown on top of the dirt that was filled with debris and he was concerned.

THOSE SPEAKING IN FAVOR:

KING LEWIS, adjoining property owner, stated that he was representing the property owners across the street and they were all in support of the improvements proposed by the applicant.

WILMA PRICE, adjoining property owner, stated the business is there and it needs improvement and she's in favor.

MARK LANCASTER, stated that he understands the neighbors concerns but he used to live across from this property years ago and the improvements already made on this property have been an improvement.

WESTON MULLIS, adjoining property owner, stated that most of the problems occurred on this property prior to Ms. Grayson taking over the business.

MARIA THOMAS stated she lived in the community and was a customer and was in support of this proposal.

MANNY VAZ, stated that he lives on Honeysuckle Creek Loop and felt that Ms. Grayson has made many improvements and wanted her to have a chance to complete her project.

AMY McMULLAN, Employee at Lake Norman Gardens, stated the business is already there and they just want to better what we can offer the community.

VANCE STAMEY, stated that he was Robbie Grayson's brother and that his sister will do what she says she will do and that she has already made many improvements.

Ms. Grayson stated that they operated a retail garden center that they did not spray pesticides or fertilizer.

After almost three hours of public comments, Chairman Fields closed the public speaking and declared a five-minute break.

The Board had open discussion and reviewed the site plan. Dr. Grigg stated that her concern was that in the recently adopted Land Use Plan we clearly said this corridor was to remain rural agriculture and single family dwellings. Dr. Grigg also stated that this business was grandfathered in when the first land use plan was adopted and we are now in the second phase of a land use plan and she felt it would be spot zoning.

Dr. Grigg made a motion to recommend denial of the zoning map amendment and to advise that it is inconsistent with the Iredell County Land Use Plan. Mr. Pruitt seconded said motion and all agreed. VOTES: 9-0.

PROPOSED ZONING ORDINANCE AMENDMENT: Ms. Harper presented the staff report ~

CURRENT COUNTY ZONING REGULATIONS: Our current regulations allow up to five children in a family day care home (in-home daycare). This is considered to be an accessory use to the principal structure. It requires a \$50 zoning permit and parking spaces at a rate of one per teacher or staff, plus one for drop off and pick up (for example: a facility with 2 teachers would only require 3 parking spaces). It is permitted in all of our zoning districts.

If an operator of a Family Day Care Home would like to care for more than five children, they have to go through the process of getting a Special Use Permit for a daycare center. This includes having a scaled site plan drawn, a fee of \$500, required play area at seventy-five square feet per child, and additional parking requirements including stacking spaces, such as those at a bank or drive-thru restaurant.

CURRENT STATE REGULATIONS: The NC State Statutes regulate the licensing of Family Child Care Homes (in-home daycare) in Chapter 110, Sections 86(3) & 91(7b). They allow five or fewer preschool age children (including those that live in the home) and an additional three school age children. School age children that live in the home are not counted. They do not issue licenses to those who care for either one or two children. This regulation was adopted by the General Assembly in 1991.

OTHER JURISDICTION REGULATIONS: The staff looked at other zoning codes to evaluate how other local jurisdictions regulated Family Day Care Homes. The Town of Mooresville, the City of Statesville, Cabarrus County and Catawba County, all have regulations that mirror the State regulations.

CONCERNS: On August 6, 2008, the Planning Board received information concerning the proposed amendment. There were a few issues that arose during the discussion, including the total number of children permitted in the home, Family Day Care Homes in an apartment, definition of a provider, and parking.

PROPOSED CHANGES: After the discussion during the Planning Board meeting, staff met with Jennifer Griffith from the Partnership for Children to try to address some of these issues. The applicant was also involved at this time. The proposed changes have been made in order to address the concerns of the Board and still accomplish the goal of the applicant, which is to be able to have eight children who are charged a fee in a Family Day Care Home.

The first item addressed was the total number of children in the day care. After discussion with the applicant, the definition of a Family Day Care Home was changed to include the following statements: *The family day care operator may have up to a total of 3 of their own children under the age of twelve in the home that are not counted. Any number over 3 would count towards the eight children limit.* This should address the Board's concerns about a total number of children in the home making the maximum number of children under the age of twelve a total of 11. This text also addresses the concerns about a definition for the provider. The proposed change refers to children of the operator of the family day care home, rather than those of the provider. The children of any other employees would have to count as children who are being cared for, for a fee.

The second item addressed was concern from the Board about allowing these type facilities in an apartment. Although the State has more stringent regulations for these facilities when located in an apartment, the staff and the applicant addressed the concerns by prohibiting these facilities in the districts where apartments are permitted. These changes can be found in Section 8.3.

The last major concern of the Board was the issue of parking. The State only allows 5 pre-school aged children in this type of facility. Other children would be those that come after school and typically ride the school bus to the facility. Therefore, only the cars that bring the 5 pre-school aged children would be dropping off children in the mornings. Discussions with the applicant indicated that the drop-off and pick-up periods make up a span of about two hours. It is a rarity to have two parents dropping off or picking up children at the same time. In some cases, more than one child from a family is being cared for at the facility. The staff feels that requiring additional parking standards for the proposed change is not warranted and would put an unnecessary burden on the operators of these facilities.

STAFF COMMENTS: Attached you will find the proposed amendments to the zoning ordinance that relate to Family Day Care Homes. The applicant has made a formal request, which the Planning staff does support.

IREDELL COUNTY ZONING REGULATIONS FOR DAYCARES

ARTICLE IX. SPECIAL REQUIREMENT NOTES TO THE TABLE OF PERMITTED AND SPECIAL USES

SR 8. Family Care Home and Family Day Care Home

A family care home with six (6) or fewer persons or a family day care home with ~~five (5)~~ **eight (8)** or fewer persons may be operated as an accessory use to a principal dwelling.

ARTICLE XIX. DEFINITIONS

Family day care home. A building used as a residence for a family which is also used to provide day care services on a temporary basis without transfer of custody for ~~five (5)~~ **eight (8)** or fewer children, for a fee. **The family day care operator may have up to a total of 3 of their own children under the age of twelve in the home that are not counted. Any number over 3 would count towards the eight children limit.** (This should address the Board's concerns about a total number of children in the home making the maximum number of children under the age of twelve a total of 11) (See SR 8)

ARTICLE X. OFF-STREET PARKING AND LOADING

Section 10.0 Off-Street Parking Requirements

C. Minimum Off-Street Parking Requirements

The following off-street Parking Space shall be required:

<u>Classification</u>	<u>Off Street Parking Requirement</u>
Child care and kindergarten, less than 6 eight (8) or fewer children	1 space per teacher or staff, plus space for 1 car drop off and pickup

Family Care Home will remain in only the single-family residential districts in the use chart. (To eliminate any concerns the Board has about a family care home in an apartment.)

ARTICLE VIII. TABLE OF PERMITTED USES AND SPECIAL USES

Section 8.3 Table of Permitted Uses and Special Uses.

USE TYPES NAICS	R-A	RU-R	R-R	R-20	R-12	R-8	R-8A	R-O	O-I	NB	HB	SC	CB	GB	M-1	M-2	S R
family day-care home (5 8 or less) 624410	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	8

Ms. Harper stated that Ms. Hayden was not present but that someone else was here to speak on her behalf. Chairman Fields commented that Ms. Hayden was not at the last meeting either and that didn't speak well of her since she is the one who submitted this proposal.

Paula Cline, Partnership for Young Children, stated this amendment was very important because they are limited to five pre-school children and their own children are counted as part of that number and it affects the income they receive. Chairman Fields had concerns about the exposure of those children under the age of 12 to an unlimited number of children over 12 years old and that increasing the number of children causes additional strain on septic and wells. Some Board Members felt it would have a negative impact on residential real estate values.

Mr. McNeely had concerns about allowing this in the R-8 & R-12 Districts.

After lengthy discussion, Mr. McNeely made a motion to recommend approval but not allow the use in R-8 & R-12 Districts. Mr. Mahaffey seconded said motion; and

AYES: McNeely, Mahaffey, Grigg, Stephens
NOES: Fields, Johnson, Pfeufer, Pruitt, Santoni

The motion failed by a vote of 4-5.

Ms. Johnson made a motion to recommend approval as submitted. Mr. Mahaffey seconded said motion; and

AYES: Johnson, Mahaffey, Stephens
NOES: Fields, Grigg, McNeely, Pfeufer, Pruitt, Santoni

The motion failed by a vote of 3-6.

At this time, Mr. McNeely made a motion to recommend approval but now allow the use in R-8 & R-12 Districts. Mr. Mahaffey seconded said motion; and

AYES: McNeely, Mahaffey, Grigg, Johnson, Stephens
NOES: Field, Pfeufer, Pruitt, Santoni

The motion passed in favor. VOTES: 5-4.

MONTHLY COMMITTEE ASSIGNMENTS: Dr. Grigg, Mr. McNeely, and Mr. Stephens volunteered to go on the site visit on Tuesday, October 21st.

ADJOURNMENT: There being no further business, Chairman Fields declared the meeting adjourned at 11:15 p.m.

Katrina Hewitt
Administrative Asst. II

Date Read and/or Approved