

Cabarrus County Planning and Zoning Commission Meeting
March 16, 2006
7:00 P.M.
County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval/Correction January Minutes
3. New Business – Board of Adjustment Functions:

- A. Variance Application 109V
The Schneider Corporation
2151 Hawkins Street Suite 201
Charlotte, NC 28203

Request: The applicant is asking for relief from a typically required front building setback.

4. Planning Board Function:

A. Rezoning Text Amendment:

1. Petition C2006-01(R-CU) - Planning Staff
Fieldstone Subdivision -Countryside Residential (CR) to
Medium Density Residential Conditional Use (MDR –CU)
2. Petition C2006-02(R) - Planning Staff
Wayne Brothers –Agriculture/Open Space (AO) and Office
Institutional (OI) to General Commercial (GC) and General
Industrial (GI)

B. Zoning Text Amendment

1. Petition C2006 -03(ZT) - Planning Staff
Definition of Average Lot Width

5. Director's Report
6. Adjournment

FINDING OF FACTS

Application: 109-V

Applicant: The Schneider Corporation
2151 Hawkins Street
Suite 201
Charlotte, N.C. 28203

Property Owner: C.P. Morgan Communities of Charlotte, LLC
4670 Haven Point Boulevard
Indianapolis, IN 46280

Zoning: LDR (Low Density Residential)

Location: 3951 Kellybrook Drive/Lot 231
Brandon Ridge Subdivision
Concord, N.C. 28025

PIN: 5538-48-3121

Request: The applicant is asking for relief from a typically required front building setback.

Additional Facts:

1. The applicant has submitted a complete application form and the additional information required by the Cabarrus County Zoning Ordinance for a Variance.
2. The adjacent property owners have been notified by mail. The letter and a list of those contacted are included in your packets.
3. The notice of public hearing was published on March 5th and March 12th, 2006 in the Cabarrus Neighbors.
4. A zoning public hearing sign has been placed on the property advertising the time and place of the public hearing.
5. The typical front building setback for the subdivision is 20 ft. The applicant inadvertently placed a newly constructed dwelling unit approximately 17 ft. from the front road right-of-way. Therefore, the applicant is seeking relief for approximately 3 ft. to comply with the general standards of the area.

The applicant has explained to staff that the error occurred due to mere miscommunication between the builder's, buyer, general contractor, and surveyor. More insight regarding the matter will be added at the public hearing.



CABARRUS COUNTY
 PO BOX 707
 CONCORD, NC 28025
 704-920-2137
 www.co.cabarrus.nc.us

Application Number <u>V-109</u>
Date <u>3-16-06</u>

VARIANCE APPLICATION FORM
 Circle Jurisdiction That Applies:

Cabarrus County
 Town of Midland
 Town of Mt. Pleasant
 Town of Harrisburg

The Variance Process:

A variance is considered a relaxation of the terms of the Ordinance where such variance will not be contrary to the public interest. Generally, a variance should be considered when the literal enforcement of the Ordinance would result in unnecessary and undue hardship to the property owner.

In order to apply for a for a variance a completed application along with the application fee is required to be turned in to the Zoning Office, 30 days prior to the scheduled public hearing. In order for the Board of Adjustment to grant approval of the variance, the applicant must provide proof of five specific standards spelled out in the Ordinance and in the following application.

If the Board finds that all approval criteria have been met, they may impose reasonable conditions upon the granting of any variance to insure public health, safety, and general welfare. If the application is approved the applicant then may proceed with securing all required local and state permits necessary for the endeavor. Failure to follow conditions set in the approval process would result in a violation of the Zoning Ordinance.

If there are additional questions concerning this process, please call the Zoning Office at (704) 920-2137.

Application Information

Applicant's Name
The Schneider Corporation
 Applicant's Address
2151 Hawkins St. Suite 201
Charlotte, NC 28203
 Applicant's Telephone Number
704-333-8360

Property Owner's Name
CP Morgan Communities of Charlotte, LLC
 Property Owner's Address
4670 Haven Point Blvd.
Indianapolis, IN 46280
 Property Owner's Telephone Number
704-345-9000

Legal Relationship of Applicant to Property Owner
 Existing Use of Property
 Existing Zoning
 Property Location
 Tax Map and Parcel Number (PIN)

Surveying / Engineering consultant
Single Family Residential
LDR
3951 Kellybrook Dr.
553821 / 5538483121

TO THE BOARD OF ADJUSTMENT

I, The Schneider Corporation HEREBY PETITION THE BOARD OF ADJUSTMENT FOR A VARIANCE FROM THE LITERAL PROVISIONS OF THE ZONING ORDINANCE. UNDER THE INTERPRETATION GIVEN TO ME BY THE ZONING ADMINISTRATOR, I AM PROHIBITED FROM USING THE AFOREMENTIONED PARCEL OF LAND. I REQUEST A VARIANCE FROM THE FOLLOWING PROVISION(S) OF THE ORDINANCE.

The following information shall be completed by applicant(s) seeking a variance:

1. Variance Sought Including Related Zoning Ordinance Section(s)

Section: CHS - DISTRICT DEVELOPMENT STANDARDS - BRANDON RIDGE PH II FINAL
CUSTOMIZED DEVELOPMENT
FRONT SETBACK FROM 20' PER PLAT
TO 17' TO RIGHT OF WAY

2. Reason(s) for Seeking a Variance

Single family residence is constructed over
the front setback line.

Requests for variance shall be accompanied by a list of adjoining property owners and their addresses and a sketch plan. Said plan shall show, the location and size of:

- 1- The boundaries of the lot(s) in question.
- 2- The size, shape and location of all existing buildings.
- 3- The size, shape and location of all proposed buildings, parking facilities and accessory uses.
- 4- The location and type of screening and buffering proposed.
- 5- Other information deemed by the Zoning Officer to be necessary to consider this application.

Signature of Owner

CP MORGAN
THE SCHNEIDER CORPORATION

Date 2/21/06

Signature of Applicant

Date 2/21/06

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Direction is received by both state legislation and local ordinance. Under the state enabling act, the Board is required to reach three (3) conclusions as a prerequisite to the issuance of a variance:

- 1- That there are practical difficulties or unnecessary hardships in the way of carrying out the letter of the ordinance.

- 2- That the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit.
- 3- That in the granting of the variance the public safety and welfare have been assured and substantial justice has been done.

In order to make it's determination the Board will review the evidence submitted in this application as well as receive public comment during the scheduled public hearing. This application will be entered into the official record of the public hearing. It is the responsibility of the applicant to present evidence to support a variance not the Planning, Zoning and Building Inspection departments nor the Board of Adjustment. The departmental staff will review and the Board will render a decision.

FINDING OF FACT CHECKLIST

Please provide an explanation to each point in the space provided.

1. **The alleged hardships or practical difficulties are unique and singular to the property of the person requesting the variance and are not those suffered in common with other property similarly located.**

(The problem must be unique to the property and not a public hardship and must apply to the property, not the property owner).

- See Attached Sheet

2. **The alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provisions of the ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.**

(This often will be the most difficult area in which to make a determination. The issue, as established by court decisions, deals with the nebulous term of "reasonableness." Generally, if the variance is sought to make a greater profit on this property at the expense of others in the area, this point cannot be met. This item is best reviewed with the concept of, "is the property barred from a reasonable use if the strict terms of the ordinance are adhered to"?)

- See Attached Sheet

3. **The variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.**

(This is a second way to address reasonableness. This is also where the issue of "where did the hardship originate from?" should be addressed. Self-inflicted hardships should be carefully reviewed for reasonableness.)

- See Attached Sheet

4. The variance is in harmony with and serves the general intent and purpose of the ordinance.

(If a variance is granted, is the overall "spirit" of the zoning ordinance still intact? While difficult to explain, some types of variance are usually not in accord with the general intent and purpose of the ordinance and therefore must be cautiously reviewed. These often include extending a non-conforming use in scope, a use variance (clearly not allowed), and modifying a dimensional standard so as to the detriment of a neighborhood or area.

The second part relates to the question, if granted will the spirit of the adopted plan for proper development of the neighborhood or area be compromised?)

- See Attached Sheet

5. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.

(This is the final way to address reasonableness via common sense. Simply put, does the variance make sense? Will its approval or denial endanger any one? Will the essential character of the area be altered if approved or denied?)

- See Attached Sheet

Possible Conditions, suggested by the applicant

If the Board of Adjustment finds that a variance may be in order but the Board still has concerns in granting the variance, reasonable conditions can be imposed to assure that any of the five points will continue to be met and not violated. In your review of the five points, are there any conditions that you believe would clarify the justification of a variance? If so, suggest these conditions in the space below.

I CERTIFY THAT ALL OF THE INFORMATION PRESENTED BY ME IN THIS APPLICATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

SIGNATURE: [Handwritten Signature]

DATE: 2/21/06

STAFF USE ONLY:

Jurisdiction <i>(circle jurisdiction that applies)</i>			
<u>Cabarrus County</u>	<u>Town of Midland</u>	<u>Town of Mt. Pleasant</u>	<u>Town of Harrisburg</u>

Application Fee Collected Yes _____ No _____

Posted Database Yes _____ No _____

Site Plan Attached Yes _____ No _____

Public Hearing Date _____ Notice of Public Hearing Published On _____

Notices to Applicant(s) and Adjoining Property Owners Mailed On _____

Signs Posted On _____

Process Record

Record of Decision:

Motion to: Approve _____ Deny _____

Board of Adjustment Recommendation: Approve _____ Deny _____

Action Taken by Board of Adjustment: _____

Date Notification of Action Mailed to Applicant(s): _____

Signature of Zoning Official

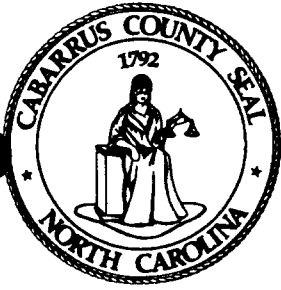
_____ Chairman-Board of Adjustment	_____ Date	_____ Secretary-Board of Adjustment	_____ Date
---------------------------------------	---------------	--	---------------

Cabarrus County - Variance Application Form

Finding of Fact Checklist

1. The hardship is not necessarily unique to this site as the front setback is the same on the surrounding properties. What is unique is that this is also a corner lot, and the house is subject to an increased side setback due to frontage on an additional street, resulting in limited area on site to locate the structure. This particular hardship, of extending over the setback line, only exists on this lot of the subdivision...not on any other lot.
2. The practical difficulty of the site results in a family not able to purchase and occupy the structure due to the strict application of the zoning ordinance. This variance will allow the site to be used to its desired intent, creating absolutely no public hazard or threat to the general welfare of the public, while the strict application of the code will prevent such usage in a timely fashion for this family.
3. The variance will in no way interfere or affect the rights or property of those adjacent property owners. The location of the home, as it stands, does not interfere with the 35' or 70' sight triangles (as required in the ordinance) and it also leaves a full 20' of driveway parking area between the back of the sidewalk and the face of the garage. This will allow any vehicles parked in the driveway enough room to clear the back of the walk and not interfere with pedestrian traffic on the neighborhood sidewalks. If the variance is not granted, and a portion of the home has to be removed to comply with the ordinance, it would create internal spaces that are not consistent with the remainder of the homes in the community and render parts of the home unusable (i.e. garage and the bedroom above). The house is built on a monolithic slab foundation which does not allow for moving the entire house.
4. The granting of this variance is still in harmony with and serves the general intent of the zoning ordinance. The location of the house does not appear to be out of context with the surrounding homes, the required sight triangle is not obstructed, the driveway leaves ample room for parking outside of the sidewalk area, and the use will maintain a single family home as do all of the surrounding lots of the subdivision.
5. The variance will result in substantial justice as this will allow a family to move into the home in a timely fashion, and not endure a substantial hardship of finding a temporary residence while this structure is somehow modified to meet the intent of the code. This structure, as it stands, does not cause undue hardship to the community or individual owners that are adjacent to the property. Thus, allowing the variance will preserve the intent of the code and not submit this family to undue hardship in the process of moving into their new home.





February 27, 2006

Dear Adjacent Property Owners:

This letter is to inform you that The Schneider Corporation of Charlotte, N.C. has petitioned the Cabarrus County Board of Adjustment for a variance. If granted, the applicant would be allowed to place a newly constructed residence approximately 3 feet inside of a typically required 20 ft. front setback. Thus, the new residence would sit approximately 17ft. off the front road right of way.

The property in question is located at 3951 Kellybrook Drive, Concord, N.C. 28025. It is Lot 231 of Brandon Ridge Subdivision.

There will be a public meeting to decide this matter on March 16, 2006. The meeting will take place at the Cabarrus County Governmental Center, 2nd Floor, located at 65 Church Street, Concord, N.C. 28026 and will begin at 7:00 p.m.

The application is on file at the Cabarrus County Zoning office. Please contact Jay Lowe (Zoning Inspector) at 704/920-2140 if you have any questions or comments regarding this petition.

Thank you,

Jay Lowe
Zoning Officer

JL/mpf

Adjacent Property Owner List for The Schneider Corporation – Case V-109
(PIN#5538-48-3121)

Craft Development
2649 Breckonridge Ctr./Ste. 104
Monroe, N.C. 28110
5538-48-3121
5538-48-3178
5538-48-4126

C.P. Morgan Communities of Charlotte LLC
4670 Haven Point Boulevard
Indianapolis, IN. 46280
5538-48-3037
5538-48-2050

Providence Capital Investments LLC
4670 Haven Point Boulevard
Indianapolis, IN. 46280
5538-48-1047
5538-48-2230
5538-48-3218

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING BOARD
March 16th, 2006

Petition: C2006-01 (R-CU)

Petitioner(s) Information: Cold Springs LLC
PO Box 810
Concord, NC 28026

Property Owner: Cold Springs LLC

Existing Zoning: CR – Countryside Residential

Proposed Zoning: MDR-CU – Medium Density Residential Conditional Use

Purpose: To rezone 2.64 acres for consistent zoning of the existing and approved preliminary Phase 3 of the Fieldstone Subdivision.

Township: Number 9 - Georgeville

Property Location: Cold Springs Road

PIN#: 5559-64-6968

Area: Approximately 2.64 Acres

Site Description: The subject property is currently vacant.

Zoning History: The applicant acquired the subject property and incorporated it into the Fieldstone Subdivision after the initial rezoning request for the subdivision. The initial rezoning was Petition C1997-15 (R-SU) and was approved September 18th, 1997. Petition C1997-15 rezoned the property from LDR-Low Density Residential to MDR-SU- Medium Density Residential-Special Use. (See attached minutes)

Area Relationships: North: MDR-SU/CR
South: CR
East: CR
West: MDR-SU

Exhibits: 1. Current Zoning Map-submitted by Staff
2. Site Plan-submitted by Petitioner
3. List of Adjacent Property Owners
3. Memo from Tom Bach-WSACC

4. Copy of Amended Development Plan as submitted with initial rezoning petition
5. Minutes- September 18th, 1997
6. Minutes- January 20th, 2005

Comments:

NCDOT-Shawn Riggs: "The Department has previously approved the new location of the phase III entrance. The proposed roadway improvements are acceptable as shown."

Cabarrus County Schools-Robert Kluttz: "We would not anticipate the rezoning request for 2.64 acres from CR-Countryside Residential to MDR-CU Medium Density Residential-Conditional Use in the Fieldstone Subdivision to have an impact on our schools. According to the plat, this subdivision will have 58 lots. This is one less lot than when we previously reviewed the plat for the Fieldstone Subdivision on December 27th, 2004."

EMS-Ron Hudson: "The plan looks good to me at this time."

WSACC-Tom Bach: Please see attached memo.

Code Considerations:

The MDR-Medium Density Residential District is intended to permit development with a moderately high density community character. This district allows open space and amenity subdivisions. Residential development options for this zone include a variety of housing types, including townhouses. These zones are located where public utilities either are available, or are envisioned available, within the next ten years.

The district is designed to provide permanent protection for those who want to live in a moderately high density residential environment. The district is designed to provide the principal location for a wide variety of residential types.

Other Considerations:

The Future Land Use Plan for the Eastern Area designates this property as Agricultural. Due to the initial rezoning approval for the existing Fieldstone Subdivision, the applicant is submitting the current petition to attempt to make the zoning on the subdivision unified and consistent. The subject property was purchased and included in the Preliminary Plat process for Fieldstone Subdivision Phase 3 and has a Preliminary Plat approval date of January 12, 2005. (See attached minutes)

Conclusions:

Approval of this rezoning would create zoning continuity for the entire proposed subdivision. The proposed use for the subject property (residential) is the same as the existing Fieldstone subdivision. Residential use would not be considered detrimental to adjacent properties as the adjacent properties are also zoned

residential. As currently zoned (CR), the developer is permitted to construct residential uses on the property.

Recommendation:

(See Rezoning Request and Conditional Use Request)

Rezoning Request:

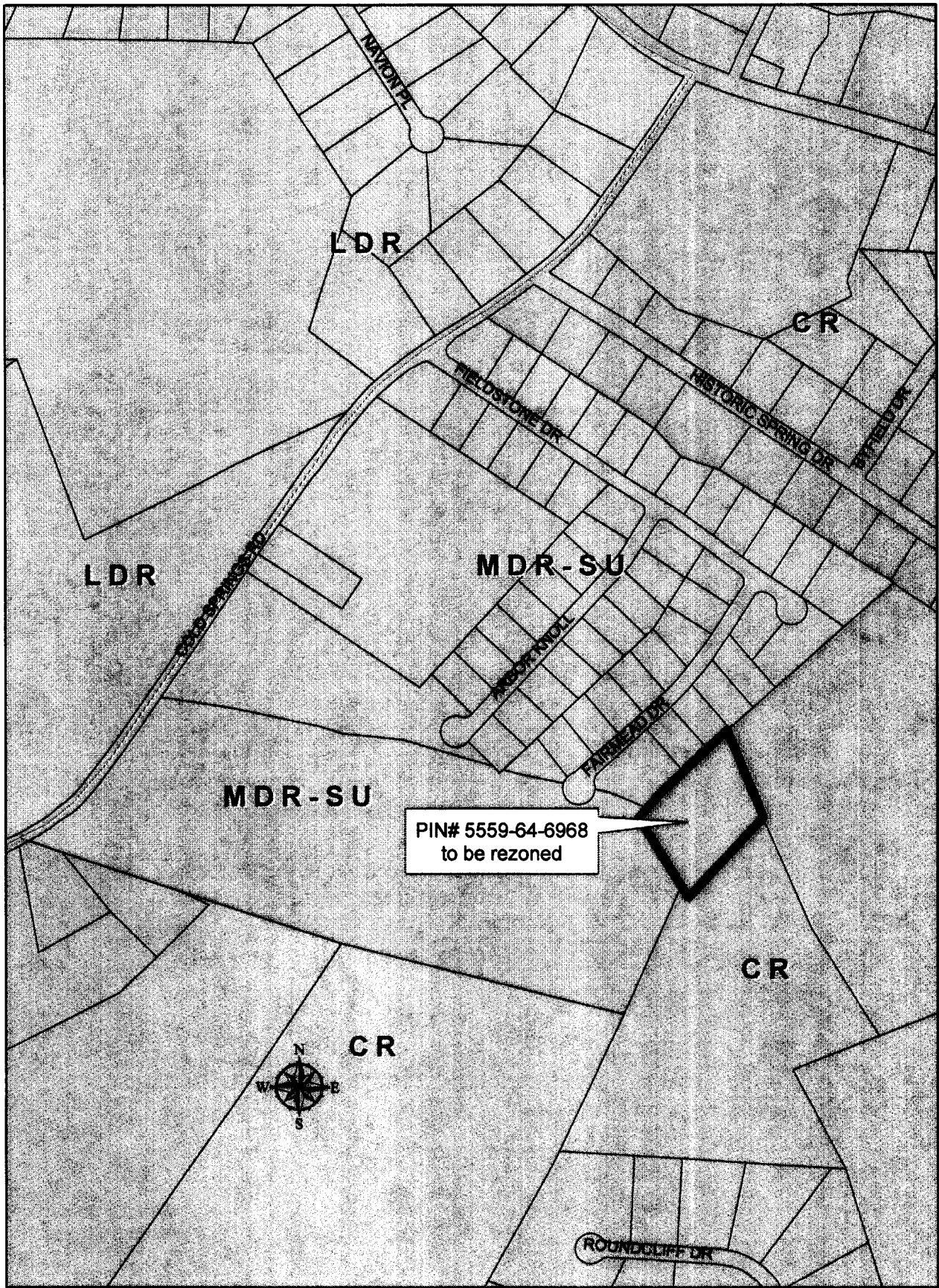
The Eastern Area Plan does not support approval of the proposed request. The applicant, however, is seeking consistent zoning for the subject property. Therefore, the Planning and Zoning Board should consider the evidence presented and render a decision accordingly.

Conditional Use Request:

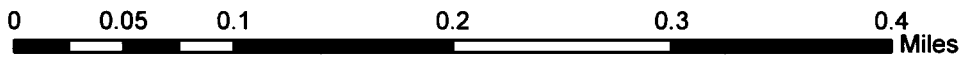
Should the Board decide to approve the rezoning request, Staff suggests the following conditions be applied to the approval:

- 1. Applicant must comply with submitted site plan (Revised preliminary plat).***
- 2. Applicant must comply with terms established in the Amended Development Plan that was part of the original rezoning request.***
- 3. Applicant shall submit to NCDOT for review and approval of all driveway permits.***

**PIN# 5559-64-6968
Zoning & Vicinity Map**



PIN# 5559-64-6968
to be rezoned



Adjacent property owners for:

Cold Springs LLC
PO Box 810
Concord, NC 28026-0810
PIN: 5559-64-6968

Collins Roger D. and Collins Anna M.
3031 Fairmead Drive
Concord, NC 28025
PIN: 5559-65-6299

Helms Keith Dwayne and Helms Karen Harkey
3101 Fairmead Drive
Concord, NC 28025
PIN: 5559-65-6212

Cold Springs LLC
PO Box 810
Concord, NC 28026
PIN: 5559-55-4399
PIN: 5559-54-3915

Kirk Jennie
6407-94th Avenue
Lanham, MD 20706
PIN: 5559-64-6179

Beane Thomas F.
PO Box 708
Concord, NC 28026
PIN: 5559-85-4678

Tom Bach

From: Tom Bach [tbach@wsacc.org]
Sent: Monday, March 06, 2006 4:55 PM
To: Kassie Goodson (ksgoodson@cabarruscounty.us)
Cc: 'Jan Sellers'; 'Mark Lomax'; 'Van Rowell'; Joe Ellington (mptownhall@vnet.net); Troy Barnhardt (mpmayor@vnet.net)
Subject: Rezoning Request For Fieldstone Subdivision

Hi Kassie,

In regards to the property located off of Cold Springs Road South (PIN #5559-64-6968) within Fieldstone Subdivision, WSACC has no issues or comments relative to conditional use re-zoning of these property noted in your memorandum sent to me dated March 2, 2006.

Relative to any future development project, please be aware that flow acceptance from WSACC is granted in the order received assuming sufficient wastewater treatment and transportation capacity is available or is reasonably expected to be made available. Currently, WSACC is granting flow acceptance to development projects that discharge wastewater to the WSACC interceptor serving this area. However, this e-mail document does not guarantee wastewater flow acceptance for the proposed site. Following approval of final site/civil construction plans, flow acceptance must be requested by the Jurisdiction providing the retail sewer service, in this case the Town of Mt. Pleasant. It should be noted that WSACC does not own or operate any existing water lines (wholesale or retail) serving this area.

If any additional information is needed, please let me know. Thanks!

Tom

Thomas A. Bach, P.E.
Utility Systems Engineer
Water & Sewer Authority of Cabarrus County
P.O. Box 428
Concord, NC 28026
Telephone: (704) 786-1783
Fax: (704) 795-1564
E-Mail: tbach@wsacc.org

"Pursuant to the Freedom of Information-Privacy Acts (FOIPA) and North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) sent in response to it may be considered public record and as such subject to request and review by anyone at any time."

AMENDED DEVELOPMENT PLAN

Development Plan:

Cold Springs LLC present proposal is for the development of approximately 56 acres as a single-family, residential subdivision. MDR-SU zoning will permit better utilization of the land and will be more consistent with adjoining zoning and subdivision development.

Special Use Standards:

The developers do not desire to develop the density permitted by unrestricted MDR zoning. The lot size and density which the developers propose will depend upon the possibility and economic feasibility of providing sewer service. As explained below, connection to the nearby sewer line may not be permitted and may not be economically feasible.

Density Standard: Without a sewer system, the average lot size will be approximately 27,500 square feet with a maximum density of 1.40 single-family dwelling units per acre.

Alternate Density Standard: With a sewer system, the average lot size will be approximately 20,000 square feet with a maximum density of 2.0 units per acre.

Street and Traffic Standard: The subdivision will have two entrances onto Cold Springs Road South. The two entrance streets will be connected by the main subdivision street. Please note that the subdivision will be developed in phases. The first phase will be at the north end of the property, and initially there will be only one entrance. It is anticipated that the south entrance will not be built until the later phases are under construction.

General Site Characteristics:

The total land proposed for rezoning is approximately 71.5 acres. 59.45 acres is under option or available for purchase and development by Cold Springs LLC; 9 acres are owned by Frances S. Miller, and 50.45 acres are owned by Linda S. Cook. About 11 acres will be retained by Mrs. Miller, and it is likely that 3 to 4 acres will be retained by Mrs. Cook. There is not a recent survey of the property to be acquired for development, and the actual acreage may vary. The acreage is based upon Cabarrus County tax maps and old deeds.

A lot of less than one acre is in a trust of which Mrs. Miller and Mrs. Cook are trustees, and it will not be developed. A vacant house is located on this property. An occupied mobile home is located on the land which Mrs. Miller will retain.

Because the proposed development will adjoin the retained property on three sides, Mrs. Miller and Mrs. Cook wish to have their property zoned the same as the development property.

The property is level to gently rolling and drains well. Approximately one-half of the property is open fields. The rest has grown up in small pines and hardwoods. The soil is predominately red clay, and soil tests have verified that it is suitable for standard septic tank systems.

Transportation Patterns:

The total property has approximately 2,500 feet of road frontage on Cold Springs Road South, a state maintained road. The property to be retained by the owners will have approximately 1,250 feet of road frontage, and the site to be developed will have approximately 1,250 feet of road frontage.

Access is safe and convenient. The property is located .2 miles south of the intersection of Cold Springs Road South and Cold Springs Road, and from there it is .6 miles to the intersection of Cold Springs Road and Hwy. 49. There is a stop light at the Hwy. 49 intersection.

A concept site plan of the proposed subdivision streets is attached to illustrate the general traffic pattern of the subdivision. When completed, the subdivision will have two entrances onto Cold Springs Road South. The exact location of the streets, and the number and location of the cul-de-sacs will depend upon the lot size permitted and property dimensions as determined by an accurate survey. Other than to show that there will be two entrances which will be connected, the site plan is not submitted as a limitation on the location of streets on the final subdivision plan.

Land Use Characteristics:

The land to be included in the proposed subdivision is vacant. As explained above, there is an occupied mobile home and a vacant single family residence on the property which the owners will retain. They have no present plans for development.

The property adjoins two residential subdivisions, Cold Springs Subdivision to the north and Heritage Springs Subdivision to the west. Other land on the west has an occupied residence. The land to the east is vacant. There is a single family residence on the property adjoining on the south.

Utilities and Infrastructure:

The property is not served by county or city water or sewer. There is a forced main sewer line on Cold Springs Road. It carries sewer pumped under pressure from Mt. Pleasant. Cold Springs LLC is investigating the possibility and feasibility of connecting to this line. The Cabarrus County Sewer Authority is unlikely to permit access to this line. Access would be expensive if permitted and may not be economically feasible.

The land is suitable for standard septic tank systems, which will be used if municipal sewer service is not provided.

A community well system is planned to provide water for the subdivision.

Relationship of the Proposed Zone Change to the Cabarrus County Land Development Guide:

The property on the other side of Cold Springs Road South is zoned MDR. Cold Springs Subdivision adjoins the property on the north, and the lot sizes in that subdivision are consistent with MDR zoning. The proposed zone change is consistent with the land development guide.

The property is in the Mt. Pleasant elementary, middle, and high school districts. There is available capacity in the schools, and over-crowding will not result.

The property is presently zoned LDR, which allows one acre lots. Under present zoning, maximum density is 1.00 dwellings per acre of the subdivision. Based upon a 60 acre development, there would be a maximum of 60 dwelling units.

With MDR-SU zoning and without sewer, the approximate average lot size will be 27,500 square feet with a maximum density of 1.40 single-family dwelling units per acre. Based upon a 60 acre development, there will be a maximum of 84 dwelling units.

With MDR-SU zoning and with a sewer system, the approximate average lot size will be 20,000 square feet with a maximum density of 2.0 dwelling units per acre. Based upon a 60 acre development, there will be a maximum of 120 dwelling units.

~~ATTACHMENTS:~~

~~Concept Site Plan
Part of Cabarrus County Tax Map~~

the 100 year line. Staff also recommends that no occupancy permits be issued until access from Ellenwood Road has been constructed to NCDOT specifications, as required by the ordinance. With those two conditions, staff recommends approval.

Mr. Christopher Borst, Westbrook Highland Creek, LLC, addressed the Board stating his understanding is, it will take approximately four months to design and eight months to construct this subdivision.

The Chair asked Mr. Borst if he was in agreement with the two conditions that staff has recommended for approval?

Mr. Borst said yes he is in agreement with the conditions of the staff.

There being no further comments, Mr. Ritchie MOTIONED to approve Highland Creek subdivision plat preliminary with the two conditions outlined by the staff, seconded by Mr. Dwiggins. The vote was 4 to 4. Mr. Ritchie, Mr. Dwiggins, Mr. Hill, and Mr. Starnes - affirmative. Mr. Babb, Mr. Moose, Mr. Drye, and Mr. Kiefer - negative. The Motion to approve Highland Creek subdivision plat preliminary was denied for lacking of a clear majority.

The Chair introduced the second item on the Agenda, Zoning Atlas Amendment, Petition 97-15:

- X
2. Applicant: Linda Cook/Frances Miller
Request: Zoning Atlas Amendment

This was a request to the Cabarrus County Planning and Zoning Commission from Linda Cook and Frances Miller to have their property located on Cold Springs Road, South, rezoned from Low Density Residential to Medium Density Residential - Special Use, to develop a single family residential subdivision.

The Chair swore in Mr. Jonathan B. Marshall, Planning Services Director and Mr. Sam Davis, Attorney.

Mr. Jonathan B. Marshall, Planning Services Director, addressed the Board presenting Petition 97-15 and Staff Analysis stating Linda Cook and Frances Miller are the property owners, and Cold Springs LLC, is the petitioner. Mr. Marshall said there is a total of 71.45 acres. In the original information, 60 acres were proposed for development. He said the petitioner has given the Board an updated development plan which the petitioner will need to go over. Mr. Marshall said the proposed density in the new plan that they have submitted is 1.4 units per acre. He said the 1.4 units would be a condition of the Board's approval should you choose to approve it. Mr. Marshall said based on staffs' analysis, staff recommends approval.

The Chair opened the Public Hearing on Petition 97-15.

Mr. Sam Davis, Principal of Cold Springs LLC, addressed the Board stating they have offered to purchase a maximum of 59.45 acres. He said they believe that this is an ideal location for this type of development. Mr. Davis said there is rural area around this property but, it is predominately residential, and for that reason, they would like for the Board to approve this application and standards.

Mr. Moose asked Mr. Davis what would be wrong with making it approximately one acre per house with the condition that it is under right now.

Mr. Davis said it is a matter of economics. He said the houses can be more affordable if the land cost is less, and it is consistent with what is in the area.

The Chair closed the Public Hearing on Petition 97-15.

There being no further comments, Mr. Kiefer MOTIONED, seconded by Mr. Ritchie to approve Petition 97-15 with the condition of 1.4 units per acre. The vote was 6 to 2. Mr. Kiefer, Mr. Ritchie, Mr. Hill, Mr. Dwiggin, Mr. Drye, and Mr. Starnes - affirmative. Mr. Moose and Mr. Babb - negative. Petition 97-15 was approved.

There being no further comments Mr. Starnes MOTIONED to approve Petition C05-01(S) with the following conditions: 1) That the developer enters into a consent agreement with the Cabarrus County Board of Commissioners to meet the Adequate Public Facilities Ordinance requirements for school facilities and 2) Final driveway permit be obtained from NCDOT, seconded by Mr. Lancaster. The vote was unanimous.

Petition C05-01(S) Approved

The Chair introduced the second item on the Agenda, Preliminary Subdivision Plat Approval, Petition C05-02(S):

X **2. Applicant: David MacDonald**
Request: Preliminary Subdivision Plat Approval

This was a request to the Cabarrus County Planning and Zoning Commission from David MacDonald to have his preliminary subdivision plat, Fieldstone Subdivision, Phase 3, approved.

Ms. Nicole Storey, Senior Planner, addressed the Board presenting Petition C05-02(S) and staff report stating planning staff finds that the proposed development meets all the requirements of the Cabarrus County Zoning and Subdivision ordinances with the following exceptions: 1) A stub out is required to provide access to adjacent vacant property. This is especially important given that some adjacent parcels are currently land locked. This item has not been addressed. 2) Lots 50 and 52 are within the LDR zoning district, they do not meet the side setback requirements as currently shown. 3) Common open space must be dedicated to the homeowners association for maintenance. This note must be included on the plat. Staff recommend that the Fieldstone Subdivision, Phase 3 be approved with the following conditions: 1) Developer comply with requested road improvements at Cold Springs Road S and provide a Performance and Indemnity Bond to ensure that roadway improvements are completed. 2) PE/PLS Certification must be completed to verify that there is sufficient right-of-way to contain the proposed roadway improvements. 3) Developer provides access to adjacent vacant acreage by way of a stub out. Ms. Storey said the applicant is present and she believes that he is prepared to speak on that requirement. She said Chapter 1, Section 7 of the Subdivision Ordinance grant the Board the authority to make a subdivision exemption should you see fit in this case. 4) Side setbacks are to be brought into compliance for lots 50 and 52. 5) That all common open space be dedicated to the Homeowner's Association and that a note indicating that is included on the plat. 6) Developer agrees to complete a consent agreement with the Cabarrus County Board of Commissioners to provide \$1,008.00/lot to advance school adequacy. Ms. Storey said that is lower than our current amount and that is based on the fact that their sketch plan was submitted before the new fees were enacted.

Mr. David McDonald, Petitioner, addressed the Board stating their main concern is protecting the folks in the subdivision.

Mr. Lancaster said the piece of land that they are talking about is currently land locked anyway, so they are not changing anything.

Mr. Tim Davis, Concord Engineering, addressed the Board stating he did the plan. He said summary of the objection is that they are putting in MDR residential lots and the land lock parcels are adjacent to the LDR. Mr. Davis said they would have no objections to providing a connection that was zoned the same character. But, having LDR zoning traveling through their neighborhood devalues what they are trying to do with the LDR zoning.

Mr. Moore asked Mr. Davis to repeat what he said.

Mr. Davis said their property is zoned MDR and the land locked parcel that is beside them is zoned LDR. He said there is nothing that says somebody can't put a mobile home next to these \$200,000 houses that they are putting in this subdivision. Mr. Davis said they are concerned about having that connection. He said if the other property was rezoned to MDR they would have no problem with providing a connection.

The Chair asked what is on that land now.

Mr. McDonald said that land has not been used for anything probably in the last 25 to 30 years.

Mr. Rodger Lentz, Planning and Zoning Manager, addressed the Board stating what we have here are three separate subdivisions, which none of them connect. He said that creates several problems. Mr. Lentz said they just want neighborhoods that are next to each other to connect so that service delivery can be done in an efficient manner as possible.

The Chair said if the homeowners decided to go to a gated community wouldn't that kind of render this move.

Mr. Lentz said that is not specifically permitted within our zoning ordinance or subdivision regulations. He said in order to do that they would have to have private streets. It is not an apparent option within our zoning ordinance and as far as he know we have only done it once in the county and they had asked for exception in the beginning of the process and he thinks it is like 10 or 15 lot development.

Mr. McDonald said there is one point he would like to make. He said they are willing to certainly entertain an easement through there as long as the property is developed to somewhat similar standards that Fieldstone is developing. Mr. McDonald said one point they would like to make clear is that they are not saying that they do not want to grant an easement they would just like to have an easement that would be conducive to the development of their property.

The Chair said would it be fair to say that they will grant the easement if the owner of that property would put in for rezoning it to MDR.

Mr. McDonald said yes, they certainly would. He said there is one point he would like to make and that is if they would do the houses they would be similar in value.

The Chair said to Mr. McDonald that he understands his concern but you cannot demand that somebody build something like you would. He said he is trying to find some kind of common ground here so everybody can go home happy.

Mr. Lancaster said how many acres is that tract of land that they are trying to get an easement to.

Mr. McDonald said he believes it is 13 acres.

Mr. Lancaster said you need to be fair to the person that owns the 13 acres. He said he would hate for that person to not be able to get in and out of the 13 acres. Mr. Lancaster said he does not think that he would have to put a paved road through that piece of property, but he said he thinks he should have to at least put a driveway or some type of easement so he can get to the property.

Mr. McDonald said they fully realize that according to state law they need to allow them access to their property. State law says that land locked property is entitled to a cart way, which is normally 18 feet. He said they are perfectly willing to grant that along the southern border of their property.

Mr. Moore asked if he is saying inside the buffer zone.

Mr. McDonald said they would like to do it outside the buffer zone.

The Chair said Mr. McDonald will grant him an easement down the south side of his property. He said that will then take care of the problem.

Mr. Lentz asked is connection to the adjacent property a standard that we are discussing. He said if it is, it says "where necessary to provide access or to permit the reasonable future subdivision of adjacent land." He said 18 feet will

not allow for the future subdivision of that property. Mr. Lentz said what he is hearing from Mr. Lancaster is that he does not feel that it will be wise to have them to pave the road but to provide the easement to the road. He said staff would be okay with that. That is something that we have done in the past. We would say that we want a minimum 45 foot right-of-way to that property. They do not necessarily have to pave it but it needs to be shown on the final plat. He said should that property owner then decide that they are going to develop, then they would be responsible for the clearing of that and for the installation of the appropriate street at that time.

Mr. McDonald said please keep in mind that they are certainly willing to go through with the easement if the property can be developed into MDR standards.

The Chair said that is something beyond the Board's purview right now. The Board is only talking about his property and he cannot speak for the other gentleman.

Mr. Lentz said he misspoke when he said 45 it has been increased to 50 feet.

The Chair said to Mr. McDonald that he will have to give up 50 feet right down that south property line.

Mr. McDonald said his partner was unable to be here tonight and he would like to discuss this with him if he can do so. He said the only thing is they may be a little tight as far as granting 50 feet. Mr. McDonald asked if they go through a stub-out or something with the 50 feet, will that be okay.

The Chair said the Board can find a way to make that work if that is amenable.

Mr. McDonald said they would certainly work toward letting the property owner go through there. He said they are just trying to protect their land lots.

The Chair said if that meets with his approval the Board can go along with this. It should be either the 50 foot right-of-way down the south border of his property or a 50 foot right-of-way to the end of one of the cul-de-sacs.

Ms. Storey said to the Chair they can just include that as a condition that the applicant will work out with staff where he will provide a 50 foot right-of-way to the adjacent property.

There being no further comments Mr. Moose MOTIONED to approve Petition C05-02(S) with the following conditions from staff: 1) Developer comply with requested road improvements at Cold Springs Road S and provide a Performance and Indemnity Bond to ensure that roadway improvements are completed. 2)

PE/PLS Certification must be completed to verify that there is sufficient right-of-way to contain the proposed roadway improvements. 3) Developer provides access to adjacent vacant acreage by way of a 50 foot right-of-way. 4) Side setbacks are to be brought into compliance for lots 50 and 52. 5) That all common open space be dedicated to the Homeowner's Association and that a note indicating that is included on the plat. 6) Developer agrees to complete a consent agreement with the Cabarrus County Board of Commissioners to provide \$1,008.00/lot to advance school adequacy. The Motion was seconded by Mr. Starnes. The vote was unanimous.

Petition C05-02(S) Approved

The Chair introduced the third item on the Agenda, Preliminary Subdivision Plat Approval, Petition C05-03(S):

3. Applicant: Pacajero Realty, LLC
Request: Preliminary Subdivision Plat Approval

This was a request to the Cabarrus County Planning and Zoning Commission from Pacajero Realty, LLC, to have their preliminary subdivision plat, Colonial Hills, Phase 2 approved.

Ms. Nicole Storey, Senior Planner, addressed the Board presenting Petition C05-03(S) and staff report. She said NCDOT has requested several off-site improvements. These improvements are still being negotiated by staff, the developer and NCDOT. Ms. Storey said one of the things that NCDOT asked for was a turn lane at the entrances on Zion Church Road, which staff did not necessarily agree with being that these are only 20 lots being added to an existing development. Staff is hoping to work that out with NCDOT and the developers. Staff finds that the proposed development meets all of the requirements of the Cabarrus County Zoning and Subdivision Ordinance. Staff recommends that the Colonial Hills subdivision, Phase 2 be approved with the following conditions: 1) Developer complies with negotiated road improvements and provides a Performance and Indemnity Bond to ensure these improvements are completed. 2) PE/PLS Certification must be completed to verify that there is sufficient right-of-way to contain the proposed roadway improvements. 3) Developer agrees to complete a consent agreement with the Cabarrus County Board of Commissioners to provide \$4,034.00/lot to advance school adequacy to be collected at time of building permit and also any necessary permits in terms of water quality and wetland mitigation prior to construction.

Mr. Smith asked Nicole to explain why staff disagrees with the left turn lane in that area.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING BOARD
March 16, 2006

Staff Review Only _____
Approved _____
Denied _____
Tabled _____

Petition: C2006-02(R)

Petitioner Information: Wayne Brothers Inc., et al.
c/o Keith Wayne
8819 Columbus St.
Davidson, NC 28036

Existing Zoning: A/O – Agriculture/Open Space
O/I – Office Institutional

Proposed Zoning: GC – General Commercial
GI – General Industrial
(See attached map)

Purpose: The petitioner seeks this rezoning for the relocation and expansion of the corporate headquarters and operations center for Wayne Brothers Inc.

Property Location: Project fronts on Mooresville Hwy, Davidson Rd, Sudbury Rd, and Odell School Rd.

PIN: 4673-66-0905, 4673-56-6269,
4673-56-4277, & 4673-47-9022

Area: 62.696 Acres to GC
13.205 Acres to GI

Site Description: Vacant, Residential, and Recreational

Area Relationships: The subject property is surrounded by A/O zoning on all sides. The adjoining properties to west are single family homes located in Forest Pine subdivision. Properties to north, south, and east are also single family residential.

Exhibits: 1. Map of proposed change
2. Area map
3. Permitted uses in the proposed districts.

Staff Review: The proposed change would allow all uses permitted in the GC and GI districts on the subject property. A review of the permitted uses shows that uses permitted in the GC and GI districts may not be compatible with the surrounding A/O zoning and, in particular, the single family residences in the surrounding neighborhoods.

Purpose Statements: Per the Zoning Ordinance, the primary purpose of the General Commercial zone is to provide locations for large scale commercial

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING BOARD
March 16, 2006

Staff Recommendation: Approved _____
Denied _____
Tabled _____

activities. This level of commercial activity usually draws clientele regionally as well as from nearby neighborhoods, requires siting on major thoroughfares and requires relatively large-scale off street parking. The zone will accommodate a wide variety of office, retail and lodging land uses. General commercial may border the other less intense commercial zone or either of the two industrial zones. A general commercial zone may border a higher density residential zone but care should be taken to assure a buffer between the two.

Rationale. This district is intended to provide the principal location for large scale commercial development in Cabarrus County.

Per the Zoning Ordinance, while the General Industrial zone permits both large and small scale industrial/office development, its primary purpose is to provide a location for large scale development. It is designed to permit a very wide variety of industrial uses which may occur both indoors and outdoors, including certain land uses which are permitted in no other zoning district because of their potential to create nuisances for adjoining properties.

Rationale. This district is intended to provide a location for both light and heavy industrial uses in a zoning district in which the potential for nuisance complaints from nearby properties is minimized. Certain land uses such as extraction, airports, and racetracks will be permitted only upon issuance of a conditional use permit. General industrial zones are compatible neighbors with both light industrial and general commercial zones. Care should be taken to site this zone on major roadways or near other forms of transportation.

APF Comments:

Schools: No impact because proposed zones are not residential in nature.

Utilities: WSACC does not own or operate any existing water lines in the area. It is currently granting flow acceptance to projects that discharge wastewater in the interceptor serving this area on a first come, first served basis.

The City of Kannapolis agrees to take over water lines when their lines are extended to the property if the developer were to build a community system that meets the City's specifications. Per the County Engineer, sewer lines would have to be extended approx. 7000 linear feet to reach the subject property. Approx. cost of water service to area is between \$5-\$8 million. There is no schedule at this time for extension of these lines (see attached).

Emergency Services: No comments received from Sheriff or Emergency Management.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING BOARD
March 16, 2006

Staff Meeting Approved _____
Board _____
Public _____

**Conformity with Land
Use Plan:**

The subject property lies within the Northwest Plan Area. In the Northwestern Small Area Plan of 1990, the subject property is designated for development under MDR (Medium Density Residential) zoning. The area at the intersection of Davidson Rd and Mooresville Hwy is designated for office/commercial development. The future land use map shows a small circle of office/commercial surrounding the intersection, with the remainder of the subject property as medium density residential.

The updated version of the Northwestern Area Plan recommends the subject property be developed for Mixed Use. This draft plan was used for guidance in the 2005 zoning update that led to the current O/I zoning. Although in draft form, the mixed use area calls for a mix of residential, commercial, and office uses. Development of this property should be part of an integrated development plan that may or may not be approved as a Planned Unit Development. Connectivity, architectural and site design, and access management are key components of these proposals.

Conclusion:

There is no utility service available to the subject property at this time, nor is there a scheduled availability date. The proposed zoning would not impact the school district directly.

Staff Recommendation:

The proposed rezoning does not conform to the proposed future land use plan for this area. In addition, per the newly adopted zoning map (2005) the subject property is zoned O/I and is reserved for office/institutional uses. This action by the County Commissioners shows support for the updated, though not formally adopted, new Northwestern Area Plan. Therefore, more emphasis should be placed on the draft area plan more so than the old (adopted) plan.

The request is for approximately 62.696 acres of GC and 13.205 acres of GI. Per the survey submitted by the applicant, the GI zoning would abut a residential neighborhood. The permitted uses in the GI district may not be compatible with the existing residential neighborhood. This is a conventional rezoning request, therefore all uses in the GI and GC zones should be considered by the board. Per the intent statement for the GI zoning district, there may be incompatible uses in the GI district due to the proposed proximity to residential areas. Since this is not a conditional use rezoning request, conditions may not be placed on the rezoning.

Per the intent statements in the Zoning Ordinance, the General Commercial zone may border the other less intense commercial zone or either of the two industrial zones. A general commercial zone may

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING BOARD
March 16, 2006

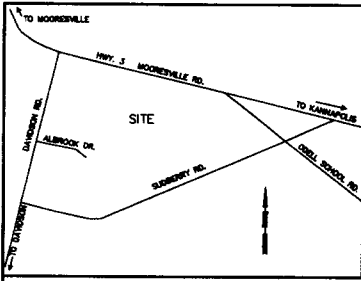
Staff Recommendation: Approved _____

Dated: _____

Tabled: _____

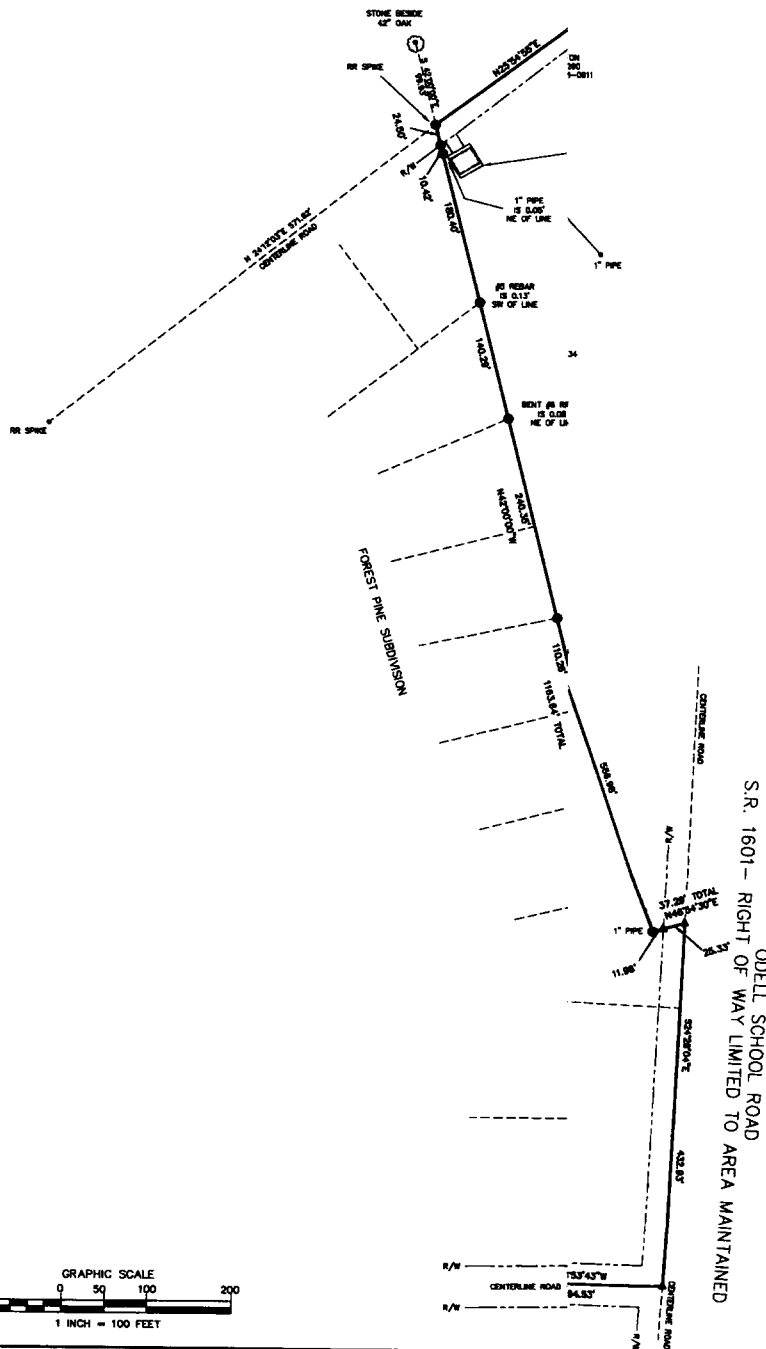
border a higher density residential zone but care should be taken to assure a buffer between the two. This district is intended to provide the principal location for large scale commercial development. The primary purpose of the General Industrial district is to provide a location of large scale development. It is designed to permit a very wide variety of industrial uses, both indoor and outdoor, including certain land uses which are permitted in no other zoning district because of their potential to create nuisances for adjoining properties. A/O zoning surrounds the subject property and is the lowest density zoning district in Cabarrus County. It provides areas for large single family lots, farms, and open space preservation. Without additional conditions (which are not permitted in a conventional rezoning), this petition cannot meet the intent of the ordinance.

As a result of the information provided above, staff cannot recommend a statement of reasonableness and consistency as required by North Carolina law. Therefore, staff cannot offer support for the approval of this petition. The Board should consider all the information presented and render a decision accordingly.



VICINITY MAP - NOT TO SCALE

- LEGEND:**
- R/W RIGHT OF WAY
 - IRON PIN FOUND
 - N.T.S. NOT TO SCALE
 - PL PROPERTY LINE
 - △ POINT COMPUTED



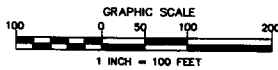
NOTES

- 1) BOUNDARY INFORMATION FROM SURVEY TITLED "BOUNDARY SURVEY PROPERTY OF J.C. WALLACE & W.F. WARE" DATED DECEMBER 28, 2005 AND REVISED ON 1/24/06. NO FIELD WORK COMPLETED BY THE ISAACS GROUP AT THIS TIME.
- 2) NO COMPLETE TITLE SEARCH DONE BY OR SUPPLIED TO THE ISAACS GROUP, PC. SUBJECT TO ANY AND ALL RIGHTS OF WAY, EASEMENTS, COVENANTS AND RESTRICTIONS, APPURTENANCES OF RECORD, HOWEVER RECORDED AND/OR IMPLIED.
- 3) AREAS CALCULATED BY COORDINATE GEOMETRY.
- 4) CURRENT ZONING FROM CABARRUS COUNTY C.I.S.
- 5) THE PURPOSE OF THIS PLAT IS TO ILLUSTRATE THE PROPOSED ZONING CHANGES ONLY. NOT FOR RECORDATION OR TRANSFER.



D.L. LORRIMAN
 DB 808-482
 PW 4673-88-8884

NO.	BY	DATE	REVISION



S.R. 1601 - RIGHT OF WAY LIMITED TO AREA MAINTAINED

**REZONING EXHIBIT
 WALLACE PROPERTY
 #3 TOWNSHIP, CABARRUS COUNTY
 NORTH CAROLINA**

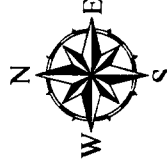
File # 08043-EXHIBIT	Date: 2/15/08	Project P/c: SSD
ISAACS		Surveyed By: SSD
CIVIL ENGINEERING DESIGN AND LAND SURVEYING		Drawn By: SSD
8720 RED OAK BOULEVARD, SUITE 420 CHARLOTTE, N.C. 28217		Scale: 1"=100'
PHONE (704) 527-3440		FAX (704) 527-8335

Case C2006-03 (R)

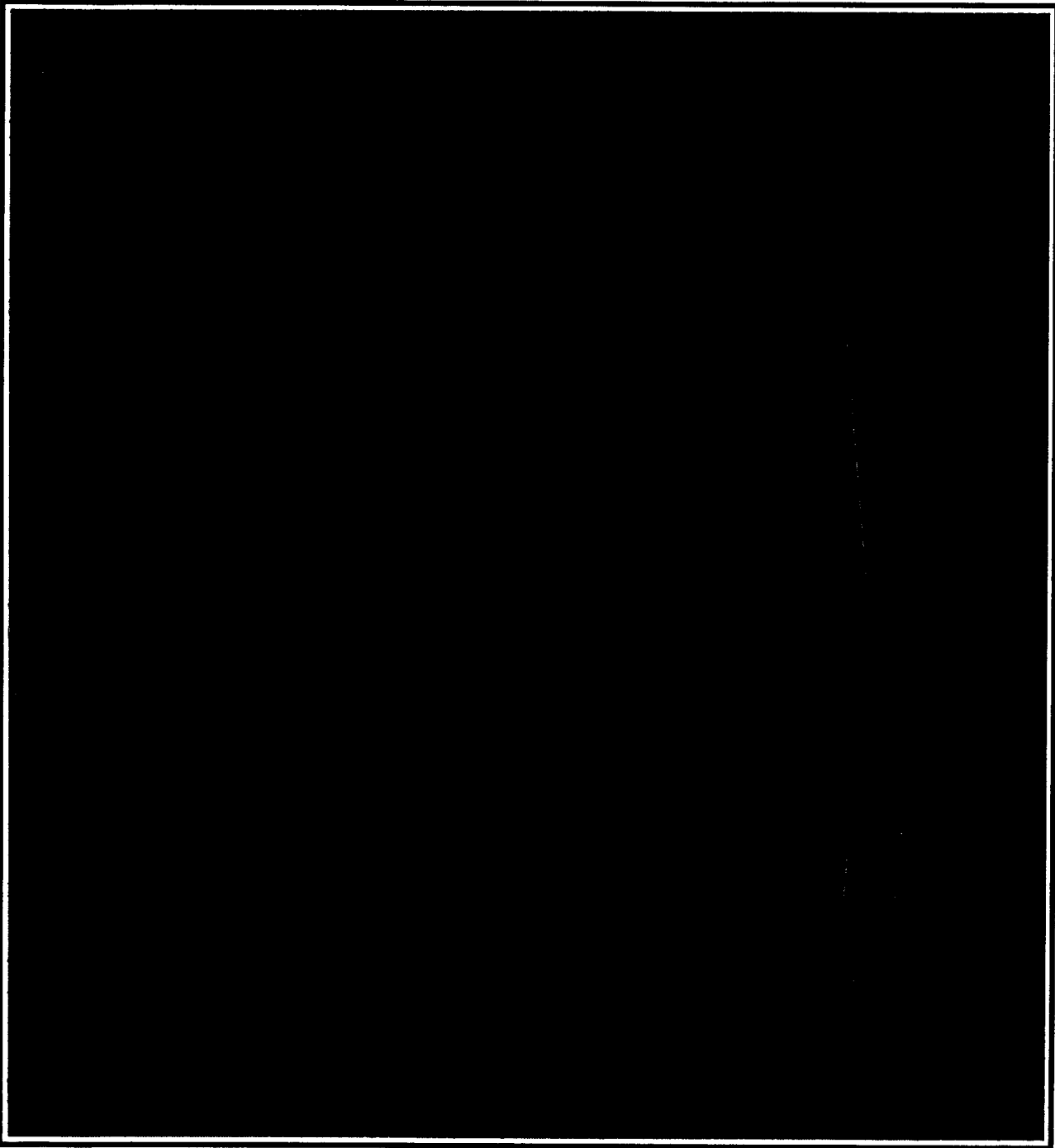
Wayne Brothers Inc., et
al.

Request to rezone
approximately 62.696
acres from O/I and A/O
to GI and GC

4673-66-0905, 4673-56-
6269, 4673-56-4277,
and 4673-47-9022



Cabarrus County shall not be held liable for any errors in these data. This includes errors of omission, commission, and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification and information contained in the data.



Uses in the General Commercial Zone:

Permitted Uses

Auction house
Automobile rental
Automobile sales/new, used
Automobile supplies
Bank/financial institution/ATM
Barber and beauty shops
Bed & breakfast
Boat works and sales
Building equipment sales/indoor storage only
Building equipment sales/outdoor storage
Bus terminal
Car wash
Catering service
Civic organization facility
Colleges & universities
Contractor's storage yard
Convenience store with petroleum sales
Convenience store without petroleum sales
Drive-in theater
Drugstore
Dry cleaning/laundry plant
Dry cleaning/pick-up station
Freezer/ice plant
Funeral home
Gas station
Hospital/medical facility
Hotels, motels & inns
Laundromat
Locksmith/gunsmith
Mobile home retail sales
Movie theater
Multimedia production & distribution complex
Nursery/greenhouse
Office, professional
Parking lot, commercial or private
Pet shop/pet grooming (enclosed)
Photographic studio
Printing and reprographic facility
Public cultural facility
Public use facility
Race shop/complex
Radio and television studio
Recreational facility, indoor

Religious institution (with a total seating capacity of 350 or less)
Religious institution (with a total seating capacity of 351 or more)
Repair garage, automobile
Repair shop, small engine
Restaurant, excluding drive-thru
Retail sales - shopping centers 10,000 - 50,000 square feet
Retail sales - shopping centers 10,000 square feet and less
Retail sales - shopping centers 50,000 - 100,000 square feet
Taxi stand
Warehouse, enclosed storage

Permitted based on Standards (PBS)

Accessory apartment
Communications tower
Landfill, demolition (one acre or less)
Machine welding shop
Mobile office, temporary
Nursery/daycare center
Recyclable materials drop-off
Restaurant with drive-thru facility
Self-service storage facilities

Conditional Uses

Adult use
Airport, commercial
Airstrip
Coliseum/stadium
Mobile Home, Class I
Public service facility
Recreational facility, outdoor
Retail sales - shopping centers greater than 100,000 square feet
Single-family detached residential
Trade and vocational schools
Truck stop/truck terminal
Trucking and heavy equipment, sales & service
Veterinarian/animal hospital/commercial kennel

Uses in the General Industrial Zone:

Permitted Uses

Asphalt and/or concrete plants
Boat works & sales
Bottling works

Building equipment sales/indoor storage
Building equipment sales/outdoor storage
Bulk grain storage
Chemical manufacturing
Contractor's storage yard
Convenience store with petroleum sales
Convenience store without petroleum sales
Dairy processing
Dry cleaning/laundry plant
Foundries, iron, steel mills
Freezer/ice plant
Gas station
Hatchery
Machine welding shop
Manufacturing/processing
Multimedia production & distribution complex
Nursery/greenhouse
Office/professional/30,000 square feet or more
Office/professional/less than 30,000 square feet
Parking lot, commercial or private
Printing and reprographic facilities
Public use facility
Race complex
Radio & television studios
Railroad station and storage yard
Repair shop, farm machinery
Restaurant, excluding drive-thru
Sawmill
Slaughter house/meat packing
Tire recapping
Truck stop/truck terminal
Trucking and heavy equipment, sales & service
Warehouse, enclosed
Warehouse, volatile materials

Permitted based on Standards (PBS)

Communications tower
Landfill, demolition (one acre or less)
Mobile office, temporary
Public service facility
Recyclable materials drop-off
Restaurant with drive-thru facility
Salvage yard
Warehouse/open storage

Conditional Uses

Airport, commercial
Airstrip
Coliseum and stadium
Extraction of earth products
Landfill, demolition (more than one acre)
Landfill, sanitary
Mobile Homes, Class I
Nursery/Daycare
Race tracks, animal & mechanical
Recreational facility, outdoor
Single family detached residential
Trade & vocational schools

Chris Moore

From: Leah Porch Wagner [LWagner@dot.state.nc.us]
Sent: Wednesday, March 08, 2006 12:21 PM
To: Chris Moore
Subject: Re: wallace property rezoning

Chris,

Preliminary comments for the subject request are as follows:

1. A traffic impact analysis will be required at such time that a development plan is generated.
2. A driveway permit will be required.
3. In addition to any roadway improvements; turn lane construction, intersection improvements and/or traffic signal, that may be needed to mitigate traffic generated by any development, the developer will be responsible for widening and strengthening Sudbury Road as its pavement structure will not withstand the traffic generated by development.

These comments are preliminary and may be modified upon review of subsequent plan submittal.

Thanks, Leah

Chris Moore wrote:

> Yes, it is a straight rezoning. There is no site plan involved. Any
> other questions, let me know.
>
> Chris Moore
> -----Original Message-----
> From: Leah Porch Wagner [mailto:LWagner@dot.state.nc.us]
> Sent: Tuesday, March 07, 2006 10:07 AM
> To: Chris Moore
> Subject: wallace property rezoning
>
> Chris,
>
> Question, is this a straight rezoning?
>
> leah
>
> DISCLAIMER:
> E-mail correspondence to and from this address may be subject to the North Carolina
Public Records Law and may be disclosed to third parties.

Chris Moore

From: Tom Bach [tbach@wsacc.org]
Sent: Thursday, March 02, 2006 10:34 AM
To: Chris Moore
Subject: RE: Proposed Rezoning Wallace Property

From: Tom Bach [mailto:tbach@wsacc.org]
Sent: Thursday, March 02, 2006 9:43 AM
To: Chris Moore (cwmoore@cabarruscounty.us)
Cc: Jeff Moody (jmoody@awck.com); 'Jan Sellers'; 'Van Rowell'
Subject: FW: Proposed Rezoning Wallace Property

Hi Chris,

In regards to the properties located off of Mooresville Road and Davidson Road (PIN #4673-66-0905, #4673-56-6296, #4673-56-4277, #4673-47-9022), WSACC has no issues or comments relative to conditional use re-zoning of these properties noted in your e-mail sent to Van Rowell on February 20, 2006 (shown below).

Relative to any future development project, please be aware that flow acceptance from WSACC is granted in the order received assuming sufficient wastewater treatment and transportation capacity is available or is reasonably expected to be made available. Currently, WSACC is granting flow acceptance to development projects that discharge wastewater to the WSACC interceptor serving this area. However, this e-mail document does not guarantee wastewater flow acceptance for the proposed site. Following approval of final site/civil construction plans, flow acceptance must be requested by the Jurisdiction providing the retail sewer service, in this case the City of Kannapolis. It should be noted that WSACC does not own or operate any existing water lines (wholesale or retail) serving this area.

If any additional information is needed, please let me know. Thanks!

Tom

Thomas A. Bach, P.E.
Utility Systems Engineer
Water & Sewer Authority of Cabarrus County
P.O. Box 428
Concord, NC 28026
Telephone: (704) 786-1783
Fax: (704) 795-1564
E-Mail: tbach@wsacc.org

"Pursuant to the Freedom of Information-Privacy Acts (FOIPA) and North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) sent in response to it may be considered public record and as such subject to request and review by anyone at any time."

From: Chris Moore [mailto:CWMoore@cabarruscounty.us]
Sent: Monday, February 20, 2006 3:06 PM
To: rkluttz@cabarrus.k12.nc.us; Ray Gilleland; Dennis Testerman; Ronald Hudson; jmoody@awck.com;

03/02/2006

Chris Moore

From: Chris Moore
Sent: Tuesday, February 21, 2006 9:58 AM
To: 'Richard Smith'
Subject: RE: Proposed Rezoning

Richard,

Thank you for your comments. I will keep you posted.

Chris Moore
Planner
Cabarrus County Planning Services
PO Box 707
Concord, NC 28026
P: 704-920-2181
F: 704-920-2144

From: Richard Smith [mailto:richardsmith@cmrplanning.com]
Sent: Tuesday, February 21, 2006 10:10 AM
To: Chris Moore
Subject: RE: Proposed Rezoning

Chris,
I believe the applicants are aware of our utilities situations, but Jeff Moody will probably comment on that further for Kannapolis. That said, we would support this request given the location and size of tract plus the proximity to Kannapolis and Mooresville.

Please keep us posted on the outcome of the request.

Regards,
Richard Smith, Director
City of Kannapolis
Planning & Community Development

From: Chris Moore [mailto:CWMoore@cabarruscounty.us]
Sent: Monday, February 20, 2006 3:06 PM
To: rkluttz@cabarrus.k12.nc.us; Ray Gilleland; Dennis Testerman; Ronald Hudson; jmoody@awck.com; Mike Legg; vrowell@wsacc.org
Subject: Proposed Rezoning

Good Afternoon-

Cabarrus County has received a request for rezoning for property located at the intersection of Davidson Rd & Mooresville Hwy. The subject property is approximately 75.9 acres. The applicant is requesting that the property be rezoned from Office/Institutional to General Commercial and General Industrial. He has submitted a will-serve letter for Kannapolis utilities. I have attached a map of the subject properties and the surrounding area. Please review the request in relation to APF and any long range plans, improvement plans and/or other areas that may be relevant to the impact that the request may have and provide any comments regarding the rezoning request to me by e-mail no later than March 1, 2006.

Should you have any questions, feel free to call or e-mail me.

Thanks!
Chris

Chris Moore

Chris Moore

From: Steve Bissinger [sbissinger@awck.com]
Sent: Thursday, March 02, 2006 1:57 PM
To: Jeff Moody
Cc: Chris Moore; Mike Legg; wmelton@ci.kannapolis.nc.us
Subject: RE: Proposed Rezoning

Sewer would have to be extended from the Riverpointe Project, approximately 7,000 linear feet.

Water service would have to be extended from the City's existing system on Hwy 3. Preliminary estimates from 2004 indicated that a 24" main would have to be extended and an elevated storage tank installed. Approximate cost to provide water service to this area of the County was \$5M-\$8M.

These projects would be primarily developer driven and I am not aware of any schedule.

From: Jeff Moody [mailto:jmoody@awck.com]
Sent: Thursday, March 02, 2006 11:32 AM
To: Steve Bissinger
Subject: FW: Proposed Rezoning

Steve,

Can you respond to this e-mail.

Jeff

From: Chris Moore [mailto:CWMoore@cabarruscounty.us]
Sent: Monday, February 20, 2006 3:06 PM
To: rkluttz@cabarrus.k12.nc.us; Ray Gilleland; Dennis Testerman; Ronald Hudson; Jeff Moody; mlegg@ci.kannapolis.nc.us; vrowell@wsacc.org
Subject: Proposed Rezoning

Good Afternoon-

Cabarrus County has received a request for rezoning for property located at the intersection of Davidson Rd & Mooresville Hwy. The subject property is approximately 75.9 acres. The applicant is requesting that the property be rezoned from Office/Institutional to General Commercial and General Industrial. He has submitted a will-serve letter for Kannapolis utilities. I have attached a map of the subject properties and the surrounding area. Please review the request in relation to APF and any long range plans, improvement plans and/or other areas that may be relevant to the impact that the request may have and provide any comments regarding the rezoning request to me by e-mail no later than March 1, 2006.

Should you have any questions, feel free to call or e-mail me.

Thanks!
Chris

Chris Moore
Planner
Cabarrus County Planning Services
PO Box 707
Concord, NC 28026

03/06/2006

Chris Moore

From: Ray Gilleland
Sent: Thursday, March 02, 2006 12:30 PM
To: Chris Moore
Subject: RE: Proposed Rezoning

Chris, I have no comments

Ray

Good Afternoon-

Cabarrus County has received a request for rezoning for property located at the intersection of Davidson Rd & Mooresville Hwy. The subject property is approximately 75.9 acres. The applicant is requesting that the property be rezoned from Office/Institutional to General Commercial and General Industrial. He has submitted a will-serve letter for Kannapolis utilities. I have attached a map of the subject properties and the surrounding area. Please review the request in relation to APF and any long range plans, improvement plans and/or other areas that may be relevant to the impact that the request may have and provide any comments regarding the rezoning request to me by e-mail no later than March 1, 2006.

Should you have any questions, feel free to call or e-mail me.

Thanks!
Chris

Chris Moore
Planner
Cabarrus County Planning Services
PO Box 707
Concord, NC 28026
P: 704-920-2181
F: 704-920-2144

Chris Moore

From: Robert Kluttz [rkluttz@cabarrus.k12.nc.us]
Sent: Tuesday, February 21, 2006 1:49 PM
To: Chris Moore
Subject: Re: Proposed Rezoning of the Wallace property

Chris,

We would not anticipate the rezoning request from Office/Institutional to General Commercial and General Industrial of the Wallace property to have an impact on the Cabarrus County Schools. Since this request does not involve residential rezoning we will not submit the APF Worksheet - Schools.

Thanks,
Robert

>>> Chris Moore <CWMoore@cabarruscounty.us> 02/20/06 2:06 PM >>>
Good Afternoon-

Cabarrus County has received a request for rezoning for property located at the intersection of Davidson Rd & Mooresville Hwy. The subject property is approximately 75.9 acres. The applicant is requesting that the property be rezoned from Office/Institutional to General Commercial and General Industrial. He has submitted a will-serve letter for Kannapolis utilities. I have attached a map of the subject properties and the surrounding area. Please review the request in relation to APF and any long range plans, improvement plans and/or other areas that may be relevant to the impact that the request may have and provide any comments regarding the rezoning request to me by e-mail no later than March 1, 2006.

Should you have any questions, feel free to call or e-mail me.

Thanks!

Chris

Chris Moore

Planner

Cabarrus County Planning Services

PO Box 707

Concord, NC 28026

P: 704-920-2181

F: 704-920-2144

DISCLAIMER:

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

Chris Moore

From: Ronald Hudson
Sent: Thursday, March 02, 2006 9:21 AM
To: Chris Moore
Subject: RE: Proposed Rezoning

I have no comments to report.

Thanks
Ron

From: Chris Moore
Sent: Thursday, March 02, 2006 8:31 AM
To: Ronald Hudson; Ray Gilleland; Jeff Moody (Business Fax); vrowell@wsacc.org
Subject: Proposed Rezoning

All,
I have not yet received comments from you regarding the proposed rezoning at the intersection of Mooresville Hwy and Davidson Rd. Please forward comments as soon as possible so that I can submit a complete report to the Planning & Zoning Board. Thank you for your timely responses.

Chris Moore
Planner
Cabarrus County Planning Services
PO Box 707
Concord, NC 28026
P: 704-920-2181
F: 704-920-2144

OVERCASH RONALD GOLD
PO BOX 5030
CONCORD NC 280275030

STEGALL NANCY W &
WILSON RONNIE E TRUSTEES
WILSON ONI & RACHEL 2/89
1175 ASHEFORD GREEN AVE
CONCORD NC 280270000

WALLY FRED DALE
10800 MOORESVILLE RD
DAVIDSON NC 280360000

EHRET THOMAS F & WIFE
EHRET KATHLEEN F
5350 CHESTER COURT
DAVIDSON NC 280367735

LUCK JEFFERY B & SUSAN J
5240 ALBROOK DRIVE
DAVIDSON NC 280360000

CROWE DON EDWARD
5190 ALBROOK DR
DAVIDSON NC 280360000

NOWLIN COLIN T & WIFE BRENDA A
5391 DAVIDSON ROAD
DAVIDSON NC 280360000

MEASIMER PASCAL H
MEASIMER JOYCE W.WIFE
11185 MOORESVILLE ROAD
DAVIDSON NC 280360000

SHARPE VERNON J
5503 DAVIDSON RD
DAVIDSON NC 280360000

STATON BURGESS M JR &
REBECCA W
10899 SUDBURY ROAD
DAVIDSON NC 280360000

MORRISON BOYCE M
400 AVINGER LANE #263
DAVIDSON NC 280360000

MORRISON BOYCE M
400 AVINGER LANE #263
DAVIDSON NC 280360000

MORRISON WILLIAM E&EMMY TRSTEE
MORRISON EMMY H&WILLIAM TRSTEE
WILLIAM & EMMY LIVING TRUST
866 CONCORD ROAD
DAVIDSON NC 280360000

SHOEMAKER JANE PERRY
5353 CHESTER COURT
DAVIDSON NC 280360000

WINECOFF WILLIAM A & BEVERLY C
5549 DAVIDSON ROAD
DAVIDSON NC 280360000

MEASIMER PASCAL H
11185 MOORESVILLE RD
DAVIDSON NC 280360000

CHESTER FRANCES MORRISON
5371 DAVIDSON ROAD
DAVIDSON NC 280360000

BENTON RANDALL G
731 BEL ARBOR
DERBY KS 670370000

HUTCHINS WILLIAM T SR
HUTCHINS RUTH/WIFE
11175 SUDBURY ROAD
DAVIDSON NC 280360000

STATON BURGESS M JR &
REBECCA W
10899 SUDBURY ROAD
DAVIDSON NC 280360000

BENTON ELDON LAVON
BENTON TRUDY BEAM /WIFE
10920 MOORESVILLE ROAD
DAVIDSON NC 280360000

CROWE DON EDWARD
5190 ALBROOK DR
DAVIDSON NC 280360000

TRICK MATTHEW S
TRICK KRISTIN D /WIFE
11074 SUDBURY ROAD
DAVIDSON NC 280360000

MUCCIO WILLIAM A
MUCCIO JOSEPHINE/WIFE
11050 SUDBURY ROAD
DAVIDSON NC 280360000

LUCK JEFFERY B & SUSAN J
5240 ALBROOK DRIVE
DAVIDSON NC 280360000

WALLACE J C
WALLACE MARIE/WIFE
5321 ODELL SCHOOL ROAD
DAVIDSON NC 280360000

MORRISON LOUISE H
MORRISON JOHN H
5064 ODELL SCHOOL ROAD
DAVIDSON NC 280360000

LUCK BRENDA SUE
5198 ALBROOK DRIVE
DAVIDSON NC 280360000

CROWE DON EDWARD
5190 ALBROOK DR
DAVIDSON NC 280360000

DELLINGER JAMES
MCLAUGHLIN BOBBIE
11020 SUDBURY ROAD
DAVIDSON NC 280360000



BRACKETT HERMAN DAVID

5275 ALBROOK DRIVE

DAVIDSON NC 280360000

ROGERS MURRAY

5301 DAVIDSON RD

DAVIDSON NC 280360000

BIENEMAN MATTHEW D

5320 DAVIDSON ROAD

DAVIDSON NC 280360000

FOUTZ BOBBY JOE & WIFE GAIL C

5497 DAVIDSON ROAD

DAVIDSON NC 280360000

WALLACE LIVING TRUST 4/13/95

5321 ODELL SCHOOL ROAD

DAVIDSON NC 280360000

BENTON ELDON LAVON

10920 MOORESVILLE ROAD

DAVIDSON NC 280360000

- (1) **Office/Institutional.** This district is intended to accommodate relatively low intensity office and institutional uses at an intensity complementary to residential land use. Where appropriate, this district can serve as a transition between residential land use and higher intensity non-residential land use.

Rationale. This district is used to provide for low intensity office and institutional uses that can be complementary to adjacent residential land use. This district features employment options and essential services which require a moderate number of average daily trips. These uses will have a minimum impact on the surrounding area because these trips will generally occur during regular business hours, thus, not competing with residential traffic at peak hours and weekends. This district should be located adjacent to residential zones or in areas where its use would serve as a transition between residential land use and higher intensity non-residential land use. Higher intensity non-residential land use may include commercial zones, light industrial or mixed use zones. When bordering residential zones, care should be taken to assure natural or manmade buffering and/or architectural compatibility so that the nonresidential activities are not a nuisance to residential use.

Uses in the Office/ Institutional Zone:

Permitted Uses

Bank/financial institution/ATM
Civic organization facility
Colleges & universities
Funeral home
Group care facility
Hospitals/medical facilities
Office, professional less than 30,000 square feet
Office, professional greater than 30,000 square feet or more
Parking lot, commercial or private
Printing & reprographic facility
Public cultural facility
Public use facility

Permitted based on Standards (PBS)

Catering service
Home occupation
Mobile office, temporary
Nursery/daycare center
Recreational facility, indoor
Recyclable materials drop-off
Religious institution (with a total seating capacity of 350 or less)
Rest/convalescent home (10 beds or less)

Conditional Uses

Communications tower

Elementary and secondary schools

Public service facility

Recreational facility, outdoor

Religious institution (with a total seating capacity of 351 or more)

Religious institution with school

Rest/convalescent home (more than 10 beds)

Trade & vocational schools

Wireless telecommunication services (WTS)

Chris Moore

From: BENTON RANDALL [benton_randall@sbcglobal.net]
Sent: Monday, March 13, 2006 11:05 PM
To: Chris Moore
Subject: [heur] Public Hearing - Petition Number C2006-02R

Mr Moore. Please acknowledge receipt of my comments. Thank You. Comments follow:

March 13, 2006

Randall G. Benton
731 Bel Arbor
Derby KS 67037-7301
Phone: (316)788-6013

Mr. Chris Moore
Cabarrus County Planning Services

Dear Sir,

I received the Planning Services notice for a Public Hearing on the proposed rezoning, Petition Number C2006-02R. I currently reside in Kansas but own part of our family farm at the intersection of Davidson Rd and Mooresville Hwy (Hwy 3). Intended use for this land is continued farming and my future residence. This farm has been in our family for some 50 years.

I have considered the proposed change and have the following comments/concerns:

I object to the Proposed Zoning Designation of GC &/or GI. This designation would not be conducive to the existing farm and residential community, and I am very concerned about the negative effect such a change will have on desirability of this area. I believe the additional noise, pollution, trash and traffic (already problems) would destroy rather than preserve the area's agricultural and country home atmosphere.

Industrial, commercial or manufacturing activities would reduce or destroy the value of our property for residential use and further complicate agricultural activity.

I appreciate the opportunity to comment and trust these comments will be appropriately considered and made a part of the official comments.

Sincerely,

Signed//6 March 2006

RANDALL G. BENTON

PLANNING STAFF REPORT

TO Cabarrus County P&Z

March 16, 2006

Staff Use Only Approved: _____

Denied: _____

Tabled: _____

Petition: C2006-03 (ZT)

Purpose: Recently, there have been questions raised about how average lot width is calculated. The purpose of this amendment is to eliminate the ambiguity in the Zoning Ordinance and provide a clear definition and calculation for average lot width.

Add the following to Chapter 2, Section 2-2. Basic Terms and Definitions:

Lot Width, Average – Measurement of average lot width shall be on an individual basis, not over several lots. For a regularly shaped lot (basically rectangular), two measurements shall be taken; at the front lot line (street frontage) and the rear lot line. The arithmetic mean lot size shall be used to determine average lot width. When a lot has multiple street frontages, the required lot width shall be measured along the narrowest street lot line (street frontage).

Irregularly shaped lots shall be measured three times, with the arithmetic mean taken from those measurements. Measurement points will be determined on a case by case basis, but shall be roughly at the front, rear, and middle points of the lot.

Considerations: Enactment of the proposed amendment will provide a definition for average lot width and eliminate confusion over the method by which it should be calculated. This amendment will ensure that the average lot width will continue to be interpreted in the future as it has been in the past.

Staff Recommendation:

Planning Staff recommends **APPROVAL** of this petition.



Planning and Zoning Commission Minutes
March 16, 2006
7:00 P.M.

Mr. Larry Griffin, Chairman called the meeting to order at 7: 01 p.m. Members present in addition to the Chair were Mr. Todd C. Berg, Ms. Brenda E. Cook, Ms. Karen D. Daugherty, Mr. Eugene Divine, Mr. Danny Fesperman, Mr. Roger Haas, Mr. Thomas Porter, Jr., Mr. Ian Prince, and Mr. Barry Shoemaker. Attending from the Planning and Zoning Division were Mr. Jonathan Marshall, Director, Commerce Department, Ms. Susie Zakraisek, Planning and Zoning Manager, Mr. Jay Lowe, Zoning Officer, Ms. Kassie Goodson, Planner, Mr. Chris Moore, Planner, Ms. Arlena Roberts, Clerk to the Board. Also attending was Mr. Richard Koch, Attorney for the Planning and Zoning Commission.

There being no corrections to the January 19, 2006 Minutes, Mr. Porter MOTIONED, SECOND by Mr. Berg to approve the minutes as mailed. The vote was unanimous.

New Business

Board of Adjustment Functions:

The chair introduced the first item on the agenda, Variance Application 109(V)

1. Applicant: The Schneider Corporation

Request: Relief from a typically required front building setback.

This was a request to the Cabarrus County Planning and Zoning Commission from Schneider Corporation for a variance request. The applicant has requested relief from a typically required 20 foot front building setback.

The Chair swore in Mr. Jay Lowe, Zoning Officer, Mr. Richard Haake, Director, Land Development for CP Morgan, Mr. John Blackketter, Operations Director for the Schneider Corporation and Mr. Mark Fisher, Engineering Operations Manager, CP Morgan

Mr. Lowe stated that the applicant is here and he needs to prove certain criteria to the board. He said basically there are three items of interest:

1. If there are or are not practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.
2. Whether or not the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit.

3. That in granting of the variance the public safety and welfare have been assured and substantial justice has been done.

Mr. Lowe said that in the application, the applicant is given the opportunity to answer those questions and try to prove to the board those hardships.

Mr. Jay Lowe, Senior Zoning Officer, addressed the board presenting Variance 109(V) and the staff report stating that the Petitioner is The Schneider Corporation and the property owner is C.P. Morgan Communities of Charlotte, LLC,. He said the zoning is Low Density Residential (LDR) and the location is at 3951 Kellybrook Drive, Lot 231 of Brandon Ridge Subdivision in Concord, NC. He said the applicant has submitted a complete application form and the additional information required by the Cabarrus County Zoning Ordinance for a Variance. He said the adjacent property owners have been notified by mail and that to this point, there has been no opposition to the request. The notice of public hearing was published on March 5th and March 12th, 2006 in the Cabarrus Neighbors and a zoning public hearing sign was placed on the property advertising the time and place of the public hearing.

Mr. Lowe said that the typical front building setback for the subdivision is 20 feet. The applicant inadvertently placed a newly constructed dwelling unit approximately 17 feet from the front road right-of-way. Therefore the applicant is seeking relief for approximately 3 feet to comply with the general standards of the area. The applicant explained to staff that the error occurred due to miscommunication between the builder, buyer, general contractor and the surveyor.

Mr. Lowe said after you hear the testimony you will need to decided if the applicant has met the criteria for the granting of the variance or not, if so, then we will assume the items have been met and if you disagree, then he will need a statement on why you disagree with it because there is an appeal process and if they decide to go through that, we will need to have something on the books as to why you disagreed.

Mr. Fesperman asked if on an appeal process whether it would go before the courts and not the commissioners.

Mr. Lowe said that is correct. He said they would have 30 days to file an appeal with the Zoning Administrator and in Superior Court. He said at that time, the judge would look at it and he could rule on it or send it back to the board for further review.

Mr. Haas said he would like to know how we came to receive this variance application to begin with.

Mr. Richard Haake, Director for Land Development for CP Morgan, stated that he would like to personally thank the members of the zoning board for allowing them to present their case. He said it is with humility and embarrassment that he has to find himself standing in front of them requesting grace and forgiveness for the mistake that has occurred on one of there building lots. He said several weeks ago when they were

ordering the final survey for the home they constructed on Lot 231 in the Brandon Ridge Subdivision, they discovered that the home was encroaching three feet into the front set back. He said although they had already secured a certificate of occupancy with Cabarrus County, they immediately postponed the closing, it would not have been appropriate within their corporate culture to proceed under these conditions. He said they seek to obey the rules and follow necessary procedures put in place to address the problem; they are not here to cast blame on any one of their subcontractors or trade partners but to accept full responsibility for this issue. He said they have built approximately a thousand homes in the Gaston, Charlotte, and Cabarrus County area and they have built thousands of homes over the past twenty three years and have never found themselves with this kind of mistake before. He said they have met with some of the adjacent neighbors and neither one of them have objected to their request for the variance. He said they respectfully request the committee to approve this variance.

Mr. Fesperman said a variance, basically most nationally, would say should never be given. He said you are a very experience builder and evidently have built a lot of homes you would expect that if this would happen you would see it happen with a smaller builder or someone that is not that experienced. He thinks that with a variance, we would have to prove intent whether it was intentional or unintentional. If it were intentional, by a builder to try to encroach on the lines to put a house plan that does not fit, then that is a problem. He said it is amazing that you have gotten this far down the line without discovering this problem. He is looking for the intent here, if this was unintentional, which he is sure you are going to say, or whether it was intentional.

Mr. Haake said it was definitely unintentional; the house plan that is currently on there would fit on the lot fine if it had just been constructed within the setback. He said they have almost 45 feet left in the rear. He said they originally sold the house under what he would call Plan A and that particular buyer was not able to go through with the purchase and they resold the house under Plan B, that buyer decided part way though the sales process to change back to Plan A that the original buyer had bought. He said unfortunately during this whole process the surveyor staked it for Plan B and the concrete foundations contractor constructed it for Plan A, the pins were staked from the front of the setback about six to twelve inches they try to allow on every house and then they go back into the rear of the lot and leave plenty of room for the rear setback and then they have about a foot in the front setback. He said that is what the surveyor did. He said unfortunately when the concrete foundation contractor came out to the site they usually start at the rear stakes and go forward. So they started their form boards at the rear stakes and then carried the entire foundation and form boards forward regardless of where the pins were on the front, they believe possibly they went pass the pins. He said there are some discrepancies between whether it was actually a surveying mistake or a contractor error, but never the less, he is before you tonight with this house protruding 3 feet into the front setback there was gracious plenty in the rear but that is not what happened.

Mr. Fesperman asked if it was the same house plan regardless.

Mr. Haake said there was a change in the house plans but both house plans would fit on this lot fine within the proper setbacks. He said it is not like they were trying to squeeze a house that was too tight for the setback and put it on there and then hope to come to the board later on with a larger house that was not the case.

Mr. Porter asked if a survey foundation was done, and why was the mistake not caught before a final survey.

Mr. Haake said normally they do not do a foundation survey unless it is really tight to the set backs and he said they were initially a foot behind the front set back and substantially behind the rear set backs and they were in on the side set backs so it did not call for a foundation survey because they were not tight and so they did not do it. He said it is normally not a practice for them because they do not usually get this tight on a foundation.

Mr. Haas asked if the sale was still pending with the homeowner.

Mr. Haake said they postponed the sale and fortunately the homeowner was willing to move to another home. He said they told the homeowner they could not proceed with this one and would not sell them a home under these conditions with this outstanding problem.

Mr. Shoemaker asked if they had an illustration of the two different plans and what the differences are between the two plans. He asked what the dramatic differences were between the two plans.

Mr. Haake said there really was not a big difference, he said Plan B may have been a little bit longer than Plan A, it was not substantial.

Mr. Mark Fisher, Engineering Operations Manager, CP Morgan, said that both house plans were the same width and the only difference was the depth. He said the house that was staked was 44 ft deep and that was Plan B and Plan A was the one built by the contractor and it was 48 ft deep. He said our house plans are set one foot off front setbacks and it is his responsibility to set all of them up, but when they pushed it forward four more feet making it 48 ft deep that gave them the 3 ft into front set back encroachment that is the only difference in the house plans.

Mr. Griffin asked why he didn't catch that at least when the slab was poured.

Mr. John Blackketter, Operations Director for the Schneider Corporation, engineering surveyor for the project stated that with this illustration and some of the pictures in the packet he does not think it was quite as evident in the field that there was truly a set back issue. He said if you look at it with the off set of the buildings and where it is with the construction equipment and things that were around it does not think it was that obvious at the time. He said it was when they went back out to do a final physical

survey on the project that they discovered the issue. He said his surveyors did not pick it up when they were out in the field and they have staked several homes in this neighborhood and did not notice a discrepancy on that one until they went out to do the final physical survey of the property.

Mr. Fisher said that when he said he was responsible for setting these things up he set up every neighborhood with a pad and he set those house pads one foot off the setback, side to side front to back the whole ball of wax. He said if he finds one that is six inches or less than he puts a red flag in the system and say look it is going to require a pull and check. He said we do some foundations surveys on some of their property but we want to stay away from that so we design our lots so we are not cramped in that tight. He said in this case we were not cramped in that tight and there was not a red flag that says we do a foundation survey so we go back to the Plan B that was staked it was a foot back which was fine so we had no reason to go back and check. He said that is how the system is set up, that saves us money that we are allow to pass on to the buyer by not having to put \$150.00 foundation survey now we look back and yeah, but we have not had one of these with thousands of homes that we have built in the last 23 years. He knows that with an experienced builder you would not expect that, thousands of homes we are human, sooner or later there is going to be human error, this is not an egregious error, this is not us trying to push one by you. He said this is just plain and simple a human error, it happened and it made it through our process and we caught it at the end and we are asking for some mercy on this one.

Mr. Fesperman asked how many homes were in the subdivision when you build out.

Mr. Fisher said 318.

Mr. Fesperman asked if he was at the front just starting.

Mr. Fisher said they are close to half; they have sold a lot of homes.

Mr. Fesperman asked if they checked with the residents around them about the situation.

Mr. Fisher said yes, that there are two existing homes that have closed, one is across the street and one is beside the home. He said that one of their directors, Mr. Gerder, sat down with both of these homeowners, they were okay with it and they said to them that it does not affect the streetscape; they do not believe it will bring down value of their home in the future.

Mr. Shoemaker asked if they thought that part of the issue with not understanding the 3 ft issue was that the other homes were coming out of the ground at the same time, and if they were building the other two homes that are next door? He said the pictures show two homes next door that are in various stages of construction were they coming up at the same time?

Mr. Fisher said yes, all three of the homes were poured at roughly the same time. One home has already closed and that was one of the buyers that they spoke too. He said the 3 ft is not that obvious if you go look at it now it is something where the 10 ft would have shown up but the 3 ft with all of the construction going on around it just did not jump out.

The Chair asked if there were any questions.

The Chair swore in Mr. Richard Simone, spectator.

Mr. Simone asked if it were typical for a building inspector to inspect the foundations and wouldn't it be picked up by him.

Mr. Lowe said to answer the question, no it is not, and there are certain items that they do try to check. He said there are two of them in zoning and building inspectors would not have anything to do with that. He said the applicant mentioned that a CO was issued on the house and the reason that was done is simply because the zoning does not issue a CO on residencies, we do on commercial uses but not residencies. He said the CO was just to let the builder know that everything as far as structure goes was in tact and done according to state law. He said it would not be unusual for him to get a CO; we do not check set backs on every structure.

The Chair asked if there were any further questions from Commission members.

Mr. Fesperman said when we first started I said the thing we had to do as a board was look to see what the intent was whether it was unintentional or intentional and he thinks that in talking and listening to them that they have been very forth coming about this not being intentional on their part. He said they are experienced builders and unfortunately things happen. He said this would have been picked up at closing at some point and time he is sure a closing attorney would have gotten it anyway. He said it got stopped before that part of it.

Mr. Fesperman **MOTIONED, SECOND** by Mr. Shoemaker to approve Variance Application 109(V).

Mr. Jay Lowe said a quick reminder that when you are acting as the Board of Adjustment the applicant must have 8 out of 9 votes go their way.

Mr. Haas said he was reading the Board of Adjustment rule and it is one rule that he is going to ask the applicant to answer that says that the applicant is suppose to meet this requirement. He said it is that the hardship is not the result of the applicants own actions. He asked the applicant to explain to board whose action he thinks created this hardship, was it the applicant or someone else?

Mr. Haake said initially he said they take full responsibility for everything that happened, however during the conversation, he stated that they believe it was the

concrete contractor coming from the rear form board forward that caused this action but he is not here to place blame.

Mr. Haas asked if it were a subcontractor and not someone who works for the applicant.

Mr. Haake said that is correct. He said it was one of their trade partners who owns a concrete firm that does all of their pouring and forming, any thing like that and their flat work. He believes that is what happened; they were out there they saw the plan they pulled everything forward and kept on moving. He said it is very rare for a surveyor to make a mistake, not saying they are perfect, but they are pretty thorough.

There being no further comments the **MOTION** to grant Variance Application 109(V) passed. The vote was 8 for and 1 against.

Mr. Richard Koch, Attorney for the Planning and Zoning Commission said to the Chair that the board will need written findings of fact for each of the elements of the variance. He said if the board wishes, he will prepare those to support the variance.

Variance 109(V) Approved.

The Chair introduced the second item on the Agenda, Rezoning Text Amendment, Petition C2006-01(R-CU)

2. Petition C2006-01(R-CU) Planning Staff

Rezone: Fieldstone Subdivision – Countryside Residential (CR) to Medium Density Residential Conditional Use (MDR-SU)

This was a request to the Cabarrus County Planning and Zoning Commission to rezone 2.64 acres for consistent zoning of the existing and approved preliminary Phase 3 of the Fieldstone Subdivision.

The Chair swore in Ms. Kassie Goodson, Planner, and Mr. Sam Davis, Developer of Fieldcrest Subdivision and Owner of Cold Springs LLC.

Ms. Kassie Goodson addressed the Board stating that the petitioner is, Cold Springs LLC, that they are also the property owner. She said the existing zoning on this property is Countryside Residential (CR) and the proposed zoning is Medium Density Residential Special Use (MDR-SU). The property is approximately 2.64 acres and is located at the rear of Phase 3 of the Fieldstone Subdivision located on Cold Springs Road. The subject property is vacant at this time.

Ms. Goodson said the applicant initially had a rezoning request in 1997 before they received their preliminary plat approval they requested that this property be rezoned and they received a special use rezoning where they had this amended development

plan which is included in your packet. She said the rezoning was approved and at that time they did not own this particular tract of land; you couldn't do a rezoning without actually owning it so they did include it in their preliminary plat approval they did not own it when they got the original rezoning done. She said now they are getting ready to get final plat approval within the next couple of months and they would like to bring this piece into compliance with the rest of the subdivision. She said on the zoning map it is the two large lots at the back that you should see on your site plan, this little piece would be the only thing that the rezoning would affect, and essentially it is bringing it into compliance with the rest of the subdivision and would allow them to possibly split those two lots into a total of four at a later date, if they should get this rezoning as they requested it.

Ms. Goodson said that all area relationships are residential; the NCDOT comments were that the department has previously approved the new location of the Phase III entrance. She said they did move that and NCDOT asked them to do that and they complied. She said staff always sends any rezoning request to the school system to see if they have any comments specifically about children that would come in for an increased density. Mr. Kluttz from Cabarrus County Schools replied back that they would not anticipate the rezoning request for 2.64 acres from CR Countryside Residential to MDR-SU Medium Density Residential Special Use in the Fieldstone Subdivision to have an impact on our schools. According to the plat, this subdivision will have 58 lots. This is one less lot than when we previously reviewed the plat for the Fieldstone Subdivision back in 2004.

Ms. Goodson said there were other comments from EMS and WSACC on attached memos. She said she referenced the MDR code considerations from the new ordinance. She said they already have an approved preliminary plat, so the development would go in accordance to what they were approved for under the old ordinance in 2004. She said some other considerations are the Future Land Use Plan for the Eastern Area that designates this property as agricultural. Due to the initial rezoning approval for the existing Fieldstone Subdivision, the applicant is submitting this current petition in an attempt to make the zoning on the subdivision unified and consistent. The subject property was purchased and included in the Preliminary Plat process for the Fieldstone Subdivision Phase III and has a Preliminary Plat approval date of January 12, 2005. She said approval of this rezoning would create zoning continuity for the entire proposed subdivision. The proposed use for the subject property (residential) is the same as the existing Fieldstone Subdivision. Residential use would not be considered detrimental to adjacent properties as the adjacent properties are also zoned residential. As currently zoned (Countryside Residential CR), the developer is permitted to construct residential uses on the property as he has it now. The Eastern Area Plan does not support the approval of the proposed request. The applicant is however, seeking consistent zoning for the subject property. Therefore the Planning and Zoning Board should consider the evidence presented and render a decision accordingly.

Ms. Goodson said, should the Board decide to approve the rezoning request, staff suggests the following conditions be applied to the approval:

1. Applicant must comply with submitted site plan (Revised preliminary plat).
2. Applicant must comply with terms established in the Amended Development Plan that was part of the original rezoning request.
3. Applicant shall submit to NCDOT for review and approval of all driveway permits.

Mr. Porter said looking back on the literature that is in their packet, the amended development plan says that the total land proposed for rezoning was 71.5 acres. He asked if that was the rezoning that took place in the past.

Ms. Goodson said yes.

Mr. Porter asked if all they were considering tonight is the 2.4 acres.

Ms. Goodson said 2.64 acres, the tract of land that she has listed under the pin number on the staff report will be the only property affected by this rezoning.

Mr. Haas asked if this was or was not included in the original zoning request.

Ms. Goodson said it was not included in the original zoning request. She said they asked for the rezoning originally, they did not own this property.

Mr. Davis said the original rezoning included about 71 acres which includes the land that they own now except for these 2.64 acres, and some adjoining land that is owned by Francis Miller. He said they bought some of her land for the subdivision but not all of it. He said that Ms. Miller agreed for all of her land to be included in the original rezoning petition, it was not much of a change it just put additional restrictions on what they were doing and specified a maximum density of 2 units per acre, with sewer and water. He said after the original rezoning petition they had the opportunity to divide this small piece of land that joins it in the back and is land locked and then they acquired it before they submitted the original site plan. He said they incorporated it into their site plan but to bring this land into conformity for zoning purposes with the rest of the subdivision they wanted to go ahead and rezone it to the same rezoning restrictions and zoning that the rest of the subdivision has. He said they have about 65 acres total and this is 2.64 acres out of a total of 65 acres in the subdivision.

Mr. Griffin asked if he was talking about 2 houses per acre and that his plan said 20,000 square foot lots roughly.

Mr. Davis said yes, approximately 20,000 minimum square footage and no more than 2 houses per acre total density.

Mr. Porter asked if sewer was currently available there.

Mr. Davis said yes, they have permission from WSACC and they have constructed a pump station for the existing homes with the capacity to serve this property as well.

Mr. Porter said as a representative of the Eastern Area and being involved from the ground floor in the Eastern Area Plan, the citizens made it very clear that wanted the area to stay the rural character. He said this being less than 3 acres and land locked, he personally does not see a conflict with the Eastern Area Plan in such a small tract of land that is truly land locked. He asked if it is currently in agricultural production.

Mr. Davis said it is vacant and wooded.

Mr. Haas asked if they approve this and it is included in the subdivision does this fall into the original consent agreement or does it have to be an addition beyond that.

Ms. Goodson said that they have discussed that with Mr. Davis and Mr. McDonald and they are aware that if they at a later time down the road decide to divide this into an additional two lots, above what they have already entered into their consent agreement for, then they will have to come back before the Board of Commissioners for those two lots to pay the adequacy assessment.

The Chair said there will be two votes on this, number one is to approve the rezoning and number two is to approve the special use.

Mr. Fesperman **MOTIONED, SECOND** by Mr. Berg to approve the rezoning request. The vote was unanimous.

The Chair asked for a motion on the special use request.

Mr. Haas **MOTIONED, SECOND** by Mr. Fesperman to approve the rezoning conditional use with the following three conditions:

1. Applicant must comply with submitted site plan (Revised preliminary plat).
2. Applicant must comply with terms established in the Amended Development Plan that was part of the original rezoning request.
3. Applicant shall submit to NCDOT for review and approval of all driveway permits.

The vote was unanimous. Petition C2006-01(R-CU) Approved.

The Chair introduced the third item on the agenda, Petition C2006-02(R), Wayne Brother Inc. request for rezoning.

Mr. Chris Moore addressed the Board stating that the Petitioner was Wayne Brothers Inc. and Keith Wayne. He said this is a conventional rezoning request. He stated that the existing zoning is Agriculture/Open Space (A/O) and Office Institutional (O/I). The proposed zoning is General Commercial (GC) and General Industrial (GI). He said the petitioner seeks this rezoning for the relocation and expansion of the corporate headquarters and operations center for Wayne Brothers Inc. The subject property fronts on Mooresville Highway, Davidson Road, Sudbury Road and Odell School Road. The petitioner is requesting approximately 62.696 acres to General Commercial (GC) and 13.205 acres to General Industrial (GI). The site is mostly vacant and wooded with a ball field and some residencies on the property. The subject property is surrounded by Agriculture/Open Space (A/O) zoning on all sides. The adjoining properties to the west are single family homes located in the Forest Pine Subdivision. Properties to north, south, and east are also single family residential. The proposed change would allow all uses permitted in the General Commercial (GC) and General Industrial (GI) on the subject property. A review of the permitted uses shows that uses permitted in the General Commercial (GC) and General Industrial (GI) may not be compatible with the surrounding Agriculture/Open Space (A/O) zoning and, in particular, the single family residences in the surrounding neighborhoods.

Mr. Moore stated that he put an additional sheet in front of them that includes the uses that are permitted in the existing Office Institutional (OI) zoning.

He stated that per the Zoning Ordinance, the primary purpose of the General Commercial zone is to provide locations for large scale commercial activities. This level of commercial activity usually draws clientele regionally as well as from nearby neighborhood, requires siting on major thoroughfares and requires relatively large-scale off street parking. The zone will accommodate a wide variety of office, retail and lodging land uses. General commercial may border the other less intense commercial zone or either of the two industrial zones. A general commercial zone may border a higher density residential zones but care should be taken to assure a buffer between the two. This district is intended to provide the principal location for large scale commercial development in Cabarrus County. Also per the Zoning Ordinance, while the General Industrial Zone permits both large and small scale industrial/office development, its primary purpose is to provide a location for large scale development. It is designed to permit a very wide variety of industrial uses which may occur both indoors and outdoors, including certain land uses which are permitted in no other zoning district because of their potential to create nuisances for adjoining properties.

Mr. Moore stated that this district is intended to provide a location for both light and heavy industrial uses in a zoning district in which the potential for nuisance complaints from nearby properties is minimized. Certain land uses such as extraction, airports, and racetracks will be permitted only upon issuance of a conditional use permit. General industrial zones are compatible neighbors with both light industrial and general commercial zones. Care should be taken to site this zone on major roadways or near other forms of transportation.

He solicited and received comments from other departments throughout the county. He said since this is not a residential rezoning request the schools did not see any impact. As far as utilities are concerned, WSACC does not own, or operate, any existing water lines in the area and it is currently granting flow acceptance to projects that discharge wastewater in the interceptor serving this area on a first come, first served basis.

He said the City of Kannapolis agrees to take over water lines when the City's lines have been extended to this property if the developer were to build a community system that meets the City's specifications. He received no comments from the Sheriff or Emergency Management. He received comments from the Department of Transportation that were not included in the staff report but were attached to the back of the packet. He said the Department of Transportation asked that a traffic impact analysis (TIA) be required at such time the development plan is generated, they will be required to apply for a driveway permit, and some request for roadway improvements though none of them can be added in as conditions on this rezoning request.

Mr. Moore said the subject property lies within the Northwest Plan Area. In the Northwestern Small Area Plan of 1990 the subject property is designated for development under Medium Density Residential (MDR) zoning. The area at the intersection of Davidson Road and Mooresville Highway is designated for office/commercial development. The future land use map shows a small circle of office/commercial surrounding the intersection, with the remainder of subject property as medium density residential. The updated version of the Northwestern Plan recommends the subject property be developed for Mixed Use. This draft plan was used for guidance in the 2005 zoning update that led to the current Office Industrial (O/I) zoning. Although in draft form, the mixed use area calls for a mix of residential, commercial, and office uses. Development of this property should be a part of an integrated development plan that may or may not be approved as a Planned Unit Development. Connectivity, architectural and site design, and access management are key components of these proposals.

Mr. Moore said there is no utility service available to the subject property at this time, nor is there a scheduled availability date. The proposed zoning would not impact the school district directly. The proposed rezoning does not conform to the proposed future land use for this area. In addition, per the newly adopted zoning map in 2005 subject property is zoned Office Industrial (OI) and is reserved for Office Institutional (OI) Uses. This action by the County Commissioners shows support for the updated, though not formally adopted, new Northwestern Area Plan. Therefore, more emphasis should be placed on the draft area plan more so than the older and adopted plan.

He said the request is for 62.696 acres of General Commercial (GC) and 13.205 acres of General Industrial (GI). Per the survey submitted by the applicant, the General Industrial (GI) zoning would abut a residential neighborhood. The permitted uses in the General Industrial (GI) district may not be compatible with the existing residential neighborhood and General Commercial (GC) zones should be considered by the board. He said this is a conventional rezoning request, therefore, all uses in the General

Industrial (GI) and General Commercial (GC) zones must be considered by the board. Per the intent statement for the General Industrial (GI) zoning district, there may be incompatible uses in the General Industrial (GI) district due to the proposed proximity to residential area. Since this is not a conditional use rezoning request, conditions may not be placed on this rezoning.

Mr. Moore said as a result of the information provided, staff cannot recommend a statement of reasonableness and consistency as required by North Carolina law. Therefore staff cannot offer support for the approval of this petition. The Board should consider all the information presented and render a decision accordingly.

The Chair asked if there were any questions for staff. There were no questions.

The Chair said we have a number of people who would like to speak on this issue, a large number against it. He said we would start with the presentation by the person or company who submitted it.

Mr. Keith Wayne, President and principle stock holder of Wayne Brothers, Inc. currently located at 8819 Columbus Street in Davidson, NC. He said he also resides in Davidson at 818 Southwest Drive; he has lived and or worked in Cabarrus County continuously throughout his life time. He said this petition was filed by him, individually, and on behalf of the company. Mr. Wayne said that the primary purpose of acquiring proper zoning is to allow for the relocation of his existing corporate office and operations facility to an approximate 10 acre parcel of this land parcel that is before the Board this evening.

Mr. Wayne said a brief history of his organization and activities that seemed appropriate for background. He said Wayne Brothers was formed as a corporation in 1985 as a result of he and his brother desiring to create a business of their own in order to use the skills they had acquired in construction of commercial buildings with a specific focus on concrete foundations and slabs involved in large structures being built throughout the Piedmont area of the Carolinas. He said a few years later they expanded there services to include the earth moving and site development activities for similar type commercial projects and the development of street and utility infrastructure. He said his company's facilities at start up phase consisted of one small building that included both office space and tool storage repair garage. He said they expanded and built a new office in 1989 at the same location, later in 1994 they expanded by adding a separate building to house the maintenance operation on the same property and finally in 1996 they elected to expand the offices for a third time to its current capacity. He said the last expansion found them developed to the maximum allowed by the new water shed regulations adopted to protect the Coddle Creek Watershed. Subsequent to this, they knew that in order to grow their facility and to accommodate their expanding need for office and maintenance and employee space, they would be required to move their business to a new and improved location which would allow for the expansion of both primary uses they find crucial to his business success.

Mr. Wayne said his current business status among the building construction firms of the southeast and even the U.S. is a source of pride for his business partners, management team and employees which all together total approximately 230 at this time. Wayne Brothers has been listed among the largest 100 concrete contractors in the U.S. by Handling Woods publications in the concrete construction magazine for a number of years consecutively. He said in 2005 they ranked as number 59th largest concrete construction contractor in the U.S., they were the largest concrete subcontractor on this list whose headquarters was located in either North or South Carolina. He said they have experienced such growth because the quality of their work force, they have continuous training and educational programs offered to all of their employees regardless of their point of entry in the company. They have an outstanding employee retention rate because of the potential of each individual employee to participate in this training to obtain certified apprenticeship and to improve their quality of life through internal promotions and increase opportunities for themselves in the business world. Their employee compensation and benefits package include a full range of medical, disability and health insurance programs, the average weekly wage of their craft persons exceed \$715.00 per week and the average salary for the salaried employees, office staff and field staff is in excess of \$1,250.00 per week. He expects the current salaried staff of 49 to grow at a rate of approximately 15%, majority of these positions requiring office space in their facility for some portion of the work day. He said they also expect similar growth rates within their field wage earners who work at various works sites around the five state region but which will receive employee services, such as human resource management, benefits coordination, continuing education and training, safety training and certification, at their new facility.

Mr. Wayne said their new operations center will include a substantial training facility for use by the technical programs they offer. They currently partner with Rowan Cabarrus Community College (RCCC) and use their classroom space for portions of this training but expect to share classroom space in their new facility with the community college once they complete it. He said the current state of business for Wayne Brothers is quite good; they completed a strategic plan during the earlier part of 2005 and with this planning process confirmed their vision for the business. The need for a new and expanded corporate headquarters and operations center was clearly identified in the process and the timeline to accomplish this was set with a good deal of consideration for all the factors involved. He said they must be relocated and in full operation in their new facilities by May 2007. With this in mind they conducted and extensive property search to find the best suited location and settled upon the Wallace property as they refer to this tract of land, which is also the subject of this petition. He said the site offers a location central to their sphere of operations which relates to the jobsites they service throughout the five states and this location is close to the homes of those already employed at their home office location. He said this was of major importance to their employees; they have numerous employees living within the surrounding neighborhood adjacent to the property subject to the rezoning.

Mr. Wayne said timing of their need coincided with the plans of the Wallace family to sell portions of their property. However, their urgency to move ahead with the

relocation of their offices was impacted by issues required of them in order to gain the approval of the rezoning necessary to accommodate their current business activities. He said they understand the rezoning requirements as it relates to a conditional use rezoning process, but because of time constraints they were not able to gather all of the site studies that would allow them to pursue that course of rezoning approval. Therefore, in order to meet the submittal deadline for this meeting, they elected to use the straight rezoning process which required less detail at the time of the submission. He said they knew at that time they would be amending the uses they expected to ask for related to this property and although they could not place restrictions upon themselves in this straight rezoning application process they do anticipate adopting substantial restrictions on the proposed development standards as well as asking that numerous uses allowed for in the standard ordinances be omitted from the ultimate uses allowed for this parcel.

Mr. Wayne said a portion of their strategic plan also identified as business expansion opportunities, the potential for future additions to their current products and services. He said they currently do not manufacture concrete products nor do they produce what is referred to as ready mix concrete for delivery in the mixers that you may see delivering to job sites around the county. He said all of their construction activity currently which they engage with a crew that various commercial jobsites where building and facilities are being constructed. He said they only support their crews with the operations center by servicing the employees' needs as well as the equipment and tools maintenance and storage. These resources are shipped to the project as needs require and returned to their facility for warehousing until needed again on another project. The current uses they propose would require only general commercial zoning designation which is their request for the majority of the acreage.

Mr. Wayne said the industrial piece contained within their petition is aligned with their potential needs for future growth of their business. He said they are not certain that these added business pursuits regarding expanding their products and services will occur at all but he does feel very strongly that were they approved to be with in there strategic business interest as a company they would need allowance to build these manufacturing capacities on their campus and adjacent to their headquarters and operation center. He said the types of manufacturing they would be requesting if they choose to pursue this business would include the fabrication of concrete components. These may include pre-cast concrete building components, architectural building facades, wall panels, concrete bathroom fixtures, concrete counter tops, and other new age building products that are currently being utilized in the higher end homes of today.

He said there would also be potential for other medium size pre-cast components manufacturing used in the site development infrastructure. The concrete manufacturing he speaks of would necessitate the batching and mixing of raw materials, sand, stone, and special add mixtures to formulate the raw product to be used in the manufacturing of the actual components that he has just outlined. The concrete plant which they would possibly seek to install at this site would serve as the

primary material source for these manufacturing processes. It also could serve to deliver ready mix concrete to builders and home owners in the surrounding area if they were successful at that time in obtaining the required permitting to erect such a ready mix plant. He said there would be considerable requirements related to permits from state and other agencies to ensure the protection of the environment as well as the residents who live within the surrounding area. He said there would also likely be infrastructure needs such as road improvements which would be required before the permits could be obtained. The expected location of both of these industrial aspects of his long range plans is purposely located in the portion of the property they believe is best suited for screening and protecting the current residence and which will provide the maximum separation protection from the surrounding property in less intense uses.

Mr. Wayne said they plan to develop this property as a Class A business park and become the first tenant to occupy its space there. He said they commit to this commission and the members of the community to impose strict architectural and environmental covenants to ensure the proper development standards necessary to create the quality of development which we all can be proud of and which will enhance the over all quality of life in our community. He said the Wallace family exercised great discipline throughout their negotiations in requiring their assurances that the property be used in a thoughtful and supportive way to benefit in the protection of their valued neighbors. He said his own reputations as well as the reputation of his partners and their employees require that they abide by these commitments to the Wallace family and to the many friends and neighbors who love the community we all share.

Mr. Wayne said in closing he would respectfully ask the commission to consider the urgency of their need in order to continue with their business in the area. He asks that the board assist them by guiding them through the rezoning process and approving this request. He said they would be happy for this approval to be processed as it is submitted but with the understanding that binding conditions will be added to the rezoning approval on these conditions being formulated. He also asked the commission to consider the substantial investment which they will be making for the extension of water, sewer and other infrastructure needs for this project to occur as evidence of their commitment to achieve a successful outcome for all the stakeholders including the surrounding community. He said thank you for your time and service to the community in hearing this petition.

The Chair asked if the board had any questions for Mr. Wayne.

Mr. Haas asked if the grey or shaded area identified on the map as industrial the portion that he was planning to use as the corporate headquarters for his company.

Mr. Wayne said part of the problem they encountered was the need for the early request for rezoning. He said they are in due diligence process now and in investigating the site since filing the partition they have gathered some information but there is still much to be gathered to be specific with saying where their corporate headquarters will be located. His best estimate at this is time is that it will border the

industrial and probably insert its self into that industrial piece which the gray hatching represents. He said they want and need to be close to the potential for that growth prospect if they do in fact find themselves choosing to pursue the industrial manufacturing/concrete manufacturing. He said they want there headquarters to be congruent with that.

Mr. Haas asked if that piece would be for sometime in the future you chose to go into manufacturing that you described in your presentation.

Mr. Wayne said that is correct. He said they think their headquarters and current operations center, which is his understanding can be located in the general commercial zoning designation, would be adjacent to along that common border between industrial and general commercial.

Ms. Daugherty asked if there had been any inquiry as to environmental impact, particularly concerning the well water for the residences around it.

Mr. Wayne said that is being under taken as we speak. He said they have engaged a Phase I environmental and a wetlands study and they are studying the property for geotechnical at the moment. He said in regards to the watershed, it is 2.5 miles from where they are currently located but it is across the ridge line. He thinks the intersection from Odell School Rd. and Highway 3 north is the ridge line where by the watershed flows away from the Coddle Creek Reservoir, so this particular parcel is one of very few in the area that can be used for commercial purposes and he thinks that is one that staff identified in its northwest area plan as a potential commercial use because it does not fall into Coddle Creek Watershed restrictions.

Mr. Prince said you mentioned that you have a move date that you are working back from that is forcing you to choose this route versus another opportunity. He asked what was forcing this deadline.

Mr. Wayne said part of it is the expiration of lease, but more pressing is the current need for space. He said at the moment, their spaces are over capacity, they have people sharing offices, and they have a mobile office on site temporarily set up to house employees. He said they have others who need office space who have to work in remote areas until they can accommodate them with space. He said the training program touches about 80 employees per quarter that will come to their facility for training at least one day a week and that they have chewed up all of their training space that was allocated and used cubicles to go into that space, they are just out of space. He said what is driving it more than anything else is the dire need for them to provide space to continue to grow their business and support the employees we have.

Mr. Prince said a self imposed deadline.

Mr. Wayne said he guessed that would be an accurate statement.

Mr. Prince asked if the objective was to have a Class A office park adjacent to the batch plant.

Mr. Wayne said that is correct. He said one of the unique things about that concept is that when they looked at Cabarrus County and other surrounding counties in already zoned industrial sectors, they could not find the image that they were looking for, for their facility in the industrial parks. He said they realized in order to tier the intensity on a project like they envisioned you had to have adequate acreage to do that. He said you have to be willing too and have available to you to set aside significant parcels of land just for natural areas and buffers. He said that may not sound realistic but he can assure them that it can be realistic if the developer is willing to commit himself and restrict himself and set that land aside. He said the intensity and the word batch plant and there are a lot of batch plants and a lot of different types of ways of setting up an operation even a batch plant operation that is not as intense as what you may drive by and see on any street corner. He said what you normally see is a 2 acre parcel crammed in some where with a batch plant and it is very visible in an industrial park. He said the only reason they would want that in and of it self would be to support the concrete pre-cast manufacturing facility. He said it would be a down size batch plant from what you probably envisioned and with the proper locating of the buildings and with using the topography which is another reason that 15 acre tract for general industrial is where it is located and because of the lay of the land and it is considerable lower and therefore less visible. He said they are trying to accommodate all of that.

Mr. Wayne said whether it is a self imposed deadline or otherwise, we may be ahead of ourselves here and they understand that. He said they are going to keep working until they meet all of the requirements and make sure what they set out to do is in fact a benefit to not only their property but the surround properties.

The Chair asked if there were any further questions.

Mr. Wayne stated that he had some handouts that he wanted to circulate that shows their current facility. He said it will give them a general idea of what they currently have. He said it shows the current office front door and lawn and a picture of the building and a little bit more information about the company. He said he would be happy to answer any questions after Mr. DeLapp speaks.

Mr. Sean DeLapp, WGM Design, Charlotte, NC, addressed the board stating that they were engaged at the end of last year to assist Wayne Brothers and Keith Wayne in analyzing sites and ultimately building a Class A headquarters. He said as a part of that process they went through several due diligence phases. He said in addition to that, they have met with the zoning and planning staff to try and find a home within the zoning code. He said the major part of that 75 acre tract they were looking at General Commercial; they felt that General Commercial fit within the office designation, business center designation, for this piece of property. Additionally, General Commercial allows for those specific services that are unique to keep Mr. Wayne's operation, such as a secured contractor storage yard which is used to secure his

equipment and to secure small equipment as well as it would allow for his warehouse and shop where he provides maintenance on that equipment and houses his materials such as forms, metal, anchors and things of that nature. He said that was the reason for the General Commercial designation.

Mr. DeLapp said to address the future need there was a need for that concrete batch plant, which with meetings with zoning and planning, really could not be allowed under a condition to the General Commercial, therefore they conscientiously sited and limited the 15 acre piece of that land for the General Industrial. He said that piece is located at the southern end of the site and is the lowest point on the site. He said this was again conscientious to gain the most buffering from the adjacent property, that piece is generally 20 to 25 feet below adjacent land and including the 75 acres that is slated as General Commercial.

The Chair asked if there were any questions. He said we have a great many speakers who he is assuming want to speak against this petition.

The following people spoke in opposition of Petition C2006-02(R):

Mr. Larry Witner -11281 Olde Cedar Court, Davidson, NC 28036, stated that he thinks this is the most ill-conceived zoning proposal that he has ever heard and he hopes that the board will protect the interest of this community and surrounding neighborhoods and not let concrete plants be built next to residential areas.

Mr. Warren Griffin – 5476 Deer Run Court, Davidson, NC 28036, stated that he lives in the River Ridge subdivision across from the proposed property. He said he is a chemical engineer that provides equipment for industries similar to what is being proposed and would like to say that he has never been around one of those plants when there was no dust and a lot of noise. He said you can see the silos and dust collection equipment sticking up 50 feet into the air and it is not a good place. He said people of Odell like the property; it is mostly farm land and wild life. He said it would be a total eye sore on the whole area.

Ms. Jayne Maurer – 5111 Wakefield Drive, Concord, NC 28027, stated that she lives about 2.5 miles from the proposed site. Her main concerns are air and water pollution. She wants to know what type of protection there will be against this.

Mr. Boyce Morrison – 400 Avinger Lane #263 Davidson, NC, stated that he is the owner of the 15 acres of land. He said that Wayne Brothers never approached him about changing the zoning classification. He said he likes the current designation that the county has for it. He thinks this should be really considered because that property is not for sale, it is not for changing classification, he would like for it to stay like it is.

Mr. W.E. Morrison – 866 Concord Road, Davidson, NC 28036, stated that he thinks this is the most ill-conceived thing that could happen to their neighborhood. He said he realizes that change will happen but there is such a thing as being good change and

bad change and he looks at this as being really out of character. He asked how this zoning could be requested for property that is not up for sale.

Ms. Jane Shoemaker – 5353 Chester Court, Davidson, NC 28036, stated that she would like to formally ask that Rodger Haas recuse himself from voting on this rezoning or any future permutations of this rezoning proposal. She said in addition to serving on this panel, Mr. Haas is also a member of the Kannapolis Board of Commissioners. She said that Kannapolis has sent a letter to Mr. Wayne supporting this rezoning and offering help to him with “any well or tank system to service you in the interim so the city can except you into the system at a future date”. She said clearly the town plans to annex this property and run water lines to it, it is setting up a quid pro quo with Mr. Wayne, we help you and you give us a foot hold where we want to be. She said this is a highly questionable tactic and is quite likely to be brought up before the Kannapolis City Council on which Mr. Haas sits, further should this matter come up before the Kannapolis Planning and Zoning Commission any appeal of a decision would go to the board on which Mr. Haas sits. She said given the potential conflicts a recusal clearly is in order.

Ms. Shoemaker stated that at 9:55 this morning, Jonathan Marshall the head of Commerce for Cabarrus County sent a letter to the members of the Board of Commissioners addressing the concerns residents had expressed about Mr. Wayne’s zoning proposal. She said that he reports that we who ever “we” is met with Keith Wayne this week to “pass along concerns that we have been hearing from residents and he thinks they are interested in altering the petition to address those concerns”. She said he then says “I have to point out that Wayne Brothers is a well established business that has been an active part of the Cabarrus community for a number of years”. She said how thoughtful of this public official to have this private meeting with one side of a dispute but not the other. She said how interesting that he would feel it important to point out that Wayne Brothers is well established. She said according to the company’s website Wayne Brothers has been exceeding customer expectations since 1985. She wishes to report that some people in this room have lived in this area since well before 1985; they were here in the 20’s, 30’s, and 40’s and beyond. These people, all of us have been voting, we have been paying taxes, we have been contributing to the life of this community and she thinks that we also are well established. She said that Mr. Marshall says in this email if you have any additional questions please let me know. She said our question is you are paid with our tax money why are you trying to get this approved.

Ms. Mary Jensen – 11686 Terrill Ridge Drive, Davidson, NC, stated that she is here as a resident of River Ridge, a concerned parent and president of the homeowners association of River Ridge. She said in looking at the northwest Cabarrus long range planning for our area on the Cabarrus County website these plans show the area that is being requesting for rezoning as mixed used development. She said typically a mix use development is normally retail and office, the general commercial district that the majority of the land area they requested for rezoning would fit with the long range plans by Cabarrus County. She said however, the general industrial district that the

remaining 13 acres that is being requested for rezoning is rarely found if ever in a mix use development. She said as support, she read the intended use by Cabarrus County for the general district, industrial district that states this district provides for both large and small scale industrial office development including certain land uses which are permitted in no other zoning development because of their potential to create nuisances for adjoining properties. She said a concrete plant would certainly be a nuisance for all in the immediate area that borders the property, this is not even taking into account environmental repercussions for the area or the overloaded roads in the area that include Odell School Road, Davidson Road, Sudbury Road and NC Highway 3. She said these roads will be very difficult to travel on with additional concrete trucks trying to get in and out of a concrete plant. She said looking at the property where Wayne Brother's current office is there appears to be plenty of family land that could be rezoned for a concrete plant however their homes would surround the concrete plant. She questions why they do not want it on Columbus Road. She said to keep in mind that if a concrete plant were being built in your back yard would you vote for it. She requests that the board decline the general industrial rezoning petition.

Mary Bernice Winkler – 5465 Deer Run Court, Davidson, NC, stated that on the behalf of her husband, Dr. Butch Winkler and herself they live in River Ridge directly across from this proposed project and they are exceedingly upset about it. She said we are concerned about the air quality and are very concerned about the dream home that they put in this pristine beautiful area of our county. She said they chose it because of the residential aspect and to drive out of their subdivision and be aware of a concrete facility is not exactly what they wanted to do with the rest of their lives. She guesses that is a selfish interest but they are thinking also of all of their neighbors; it is a wonderful neighborhood and she does not think the board would want it in their yard. She said she hopes the board would consider it from their point of view. She said the only reason it was not a school issue is that it does not bring students into our over crowded schools. She respectfully requests that the board decline this attempt to rezone and change our whole area.

Mary White 11291 Olde Cedar Court, Davidson, NC, stated that she lives in the River Ridge Subdivision across from the proposed concrete facility. She is here to state her concern about the potential rezoning in their area in order to accommodate a concrete manufacturing facility. She said as a mother of young children she is highly concerned about the potential threat of hazardous materials and water contamination. She said the particle pollutants in the air as well as the noise and heavy traffic are neither desirable nor healthy for their families in the long run. She said as a homeowner, she is concerned about what this will do to their neighborhood, when they purchased their home the area was not zoned for general industrial. She said the definition of general industrial has been stated before; that uses of the land are permitted and no development because the potential it could create nuisances to the adjoining property. She thinks one would have to agree that a concrete manufacturing plant in our neighborhood would definitely have a potential to create a nuisance to its surrounding neighbors. She said as a member of the Odell community she is concerned that they have an opportunity to develop a wonderful sort after community and the addition of

such an industrial plant would make them less desirable and attractive as a place to live. She said the people in this area take pride in the community and want to maintain an offer of positive quality of life. She said a major concrete plant in the middle of the community will not offer this type of life style nor does it present any advantageous benefits to our community. She said that when Mr. Wayne was approached by Channel 9 news yesterday and asked what his intentions were for the property he stated to Ron Magnuson that he had no specific plans. She said the news reporter had to contact the county in order to find out what was the intention of land use. She is asking that the board support the desires of this overwhelming majority of residents who live in this neighborhood and not allow the rezoning to occur for the benefit of one individual.

Mr. James Case – 5485 Deer Run Court, Davidson, NC, stated that he lives in the River Ridge Subdivision. He said there are about 85 homes in that subdivision and adjacent to the concrete area there are another 30 or 40 homes. He said you are looking at a negative impact of probably 130 to 150 homes having a negative impact with noise pollution, air pollution, water pollution and health hazards lowering the property values of those homes. He said Odell School Road intersects with Mooresville Highway; there is tremendous amount of traffic already on that road, with the school buses and then adding concrete trucks the traffic congestion and chances of accidents happening are multiplied. He hopes that the board will refrain from changing the current zoning and vote against this request.

Katie Martocchio – 518 Albrook Drive, Davidson, NC, stated that she is a home owner in the Forest Pines area. She said she is extremely concerned about the possible addition of a concrete plant to their neighborhood. She has done research regarding the manufacturing of concrete and she is not pleased by what she has learned. She said she discovered that OSHA recommends that employees of concrete manufacturing companies wear personal protective equipment to protect themselves against irritation from exposure to cement dust. She said their concern is with eyes, skin and respiratory tract infections and exposure to cilia which can lead to lung injuries such as lung cancer. She said to her that seems like a mighty big concern. She said there is also concern about the noise level how much is too much no one seems to be able to answer that question. She said since we in Forest Pines will be exposed to this 24/7, she would like to know if Mr. Wayne is going to provide them with protective personal equipment. She said what about our roads; they are not adequate now they will be impacted by concrete trucks coming and going at all times. She said according to Mr. Wayne's website he has a very lucrative business with many projects, how many hours will this plant be in operation for him to fulfill his obligations? She said can we expect to be lulled to sleep by the sound of cement mixers and be awakened every morning by the sound of the trucks departing? She said it seems pretty well documented that no matter what precautions Mr. Wayne takes our ground water will be polluted by the disposal of his left over wash water.

Ms. Martocchio said she lives right next to the community well and she will have the pleasure of looking out her front door to see Mr. Wayne's concrete plant. She said

when they built their home nine years ago; they chose to live in the country away from the city because they wanted to be able to have a vegetable garden, grow flowers and not to mention the joy of hearing the birds and seeing the stars at night. She said she has to believe that is why her neighbors in the community moved here too. She cannot imagine the impact this factory will have on the environment, unfortunately she can imagine the impact it will have on our quality of life not to mention the negative impact it will have on our property values. She knows that if she were looking for a home she certainly would not buy one that looked out over a cement factory. She can only hope that the planning and zoning board will deny Mr. Wayne his petition. She said to answer the question the gray area of that map that is where he intends to put his concrete plant.

Mr. Tim Jayne 5405 Ashbury Lane, Davidson, NC, stated that he is also a resident of River Ridge. He said he is going to make this very personal. He said he stands before you to represent his five year old son who has severe asthma and he has to take breathing treatments almost daily. He said during the summertime his time outside is extremely limited, this plant would surely cause him extreme health situations that would require hospitalization and doctor visits. He thinks it is ill-conceived, he thinks he is trying to pull a fast one. He said we in River Ridge are community under siege. He said over the past year they have been constantly inundated with threats of annexation from Kannapolis, we have clear cutting of large tracts of land behind them, their property values are going to start to plummet; you are not protecting communities. He said communities are places where the lady who teaches his daughter piano lives down the street, friends he goes to church with live down the street. He said this will destroy a community to line this gentleman's pockets and he asks that you not do it.

Ms. Fay Crowe - 5190 Albrook Drive, Davidson, NC, stated that she lives in the Forest Pines community located directly next to the area proposed to rezoning. She said thank you for giving her the opportunity to speak against the plan to pollute the air, the water, the piece and quiet of their neighborhood and the quality of life in the northwestern corner of Cabarrus County. She said please understand that she is not offering a knee jerk reaction to the plan to the concrete plant in her back yard. She said it would literally be in her back yard. Ms. Crowe said she is a registered nurse and she has done considerable research on the impact of a concrete plant on a nearby neighborhood. She said Mr. Wayne came to her home and tried to smooth talk his way into decreasing or stopping neighborhood opposition. She could only assume that he thought that they were uninformed, stupid, and gullible or combination of the three. She can assure him that neither we nor you sit on the board of any of these.

Ms. Crowe said her primary concern is pollution of the water and the air. She said a concrete plant uses a great deal of water and there is a great deal of run off. Drawing water from the ground could impact the community well that serves 30 plus homes in the neighborhood and there is a strong likelihood that run off that includes additives that could seep into the ground water. She said in addition there is research that the air will be polluted from particle emissions even with the filters that Mr. Wayne no doubt

will assure you he will install. She said the noise pollution will come from the plant itself plus hundreds of trucks bringing in gravel and sand and taking concrete out. She said when she asked Mr. Wayne about the impact on this he said he had a company in Charlotte looking into it.

Ms. Crowe said this is little comfort for us, no; let me be clear, this is zero comfort to us. She said a company he pays for will provide the conclusion he wants, her information comes from the EPA, the National Institute of Health and other independent sources. She respectfully asks that you give them the wait they deserve as you consider rezoning this area. She said a cement plant will crush our property values and destroy our quality of life, if Mr. Wayne thinks a cement plant is a good neighbor than let him put it in his back yard not ours. She said let his children breathe the silicate dust and dodge monster trucks as they ride their bicycles, let his family awaken at dawn to the sounds of gears shifting and trucks rumbling in, let him see the value of his most favorable possession of his home plummet, please vote no to the rezoning of the land located in the Odell Community petition by Wayne Brothers, Inc.

Mr. Norman Anderson – 5484 Deer Run Court, Davidson, NC, stated he lives in the River Ridge Subdivision about one (1) mile from the proposed concrete plant. He said he talked with four of his nearest neighbors about this proposed plant and they were uniformly against (the rezoning). He said it is not just him but it looks like just about everybody within miles of the plant is protesting. He said it is a big deal. He liked this area where they live because its farms and houses and they would like for it to stay that way. He said they think the plant will be an eye sore and a health hazard, we are all opposed to building this plant.

Mr. Cecil Weddington, 11443 Mooresville Road, Davidson, NC, stated that his family has lived in Cabarrus County since 1792. He said most of these folks here he grew up with, went to school at Odell with them. He said Ms. Wallace taught him at Odell, he said he knows the Wayne Brothers. He said he lives up the road and he could hear all the kids screaming when they were playing soft ball at the ball field. He said the reason the ball field is neglected right now is because they cannot fix the lights, just cannot get any support out there. Mr. Weddington said they would like to see a Food Lion; they would be more than happy for the Wayne Brothers to move their offices over there and build the plant over on Archer Road at their house that is fine. He said he heard a lot about the water shed at Coddle Creek which also supplies water to the City of Concord. He said they just happen to be on the other side of the road where the entire watershed goes to the Rocky River, what about those folks? He said no telling what will be affected down the line. He said he surveyed the property in question and it is a low lying area and straight from that low lying area it goes down and ends at the Rocky River, it might be a way to get down into the sewer. He said as for the City of Kannapolis, they can stay in Kannapolis; he does not even go to Kannapolis. He said he does not want industrial anything in his back yard, period. He said general commercial is fine, they need a Food Lion, a Papa John pizza would be nice, we could all walk down the road to get beer. He hopes that the board heeds what he is saying

and listens real hard to what he is saying; we do not want an industrial anything period in our back yard.

Mr. Larry Edwards – 12037 Mooresville Road, Davidson, NC, he wants to discuss the infrastructure in that area. He lives and has worked in the Coddle Creek area for the last 35 years. He has seen that area develop, he has see the traffic increase by 20 fold on that highway since he started his business there 35 years ago. He said the roads in that area were not built to handle this kind of commercial development. He said every 3 to 5 years Highway 3 and Odell School Road have to be repaved. He lives in the area, his children and grandchildren live in the area and we do not need this type of development. He understands that development is inevitable, but we can do better than the commercial development that we are looking at today. He is not close enough that it would effect the value of his land, he is a about a mile away from that sight but it certainly would affect the appraised value of the land of the adjacent homeowners and he feels for them. He said change is inevitable but not this type of industry.

Mr. Fred Wally - 10800 Mooresville Road, Davidson, NC, stated that his property is located directly across from Mooresville Road from the parcel of land that is being petitioned for rezoning. He said that parcel is currently zone OI and surrounded by property zoned AO. He said a rezoning of this land to GC and GI would be incompatible with the residential and rural usage of the surrounding properties. For example the property that he owns requires a minimum lot size of 3 acres for a single family residence. He said the county zoned this area that way to maintain low density housing, open spaces and agriculture usage. He said if you rezone over 75 acres in this area so that it can become another industrial park or commercial business center, it will totally destroy the intent of the current zoning plan. This property is currently zoned OI, uses permitted under this zoning includes schools, libraries, banks and medical offices. He said when he called the planning department in 2005 and asked them why this property was being zoned to OI he was told they wanted to reserve a parcel of land in northwest Cabarrus County for this sort of limited development as the area grew over time. He said there is no other area in northwest Cabarrus County set aside as OI, so if you approve this zoning petition you have totally disrupted long range planning that was done for this area by your own staff. He said there is already a sufficient number of an undeveloped property zoned commercial or industrial in the western part of Cabarrus County, one example is the commercial district surrounding the Concord Airport, another is the Kannapolis Business Park located off Highway 73. He said both of these areas are within six miles of the parcel that is up for rezoning tonight, if this parcel is rezoned to GI and GC it will allow businesses such as concrete plants, hazardous chemical plants, warehouses, animal slaughter houses, truck stops and big box shopping centers.

Mr. Wally said this is not in line with the residential and rural flavor of this area. This rezoning will penalize the existing homeowners by lowering the values of their homes and by subjecting the residents to the potential of excessive noise, traffic, dust, smoke and pollution. The updated version of the Northwest Cabarrus Area Land Use Plan calls for this parcel to be developed for mix used only, that is why it was rezoned to

OI. He said please note that the Northwest Cabarrus Land Use Plan does not allow for the following land use descriptions; neighborhood center or commercial, this rezoning would allow all of these uses on this parcel. He said in summary this rezoning is incompatible with the current zoning provisions of Cabarrus County; it is in violation of Northwest Cabarrus Land Use Plan. He said the residents of this area are not in favor of this rezoning and should not have to suffer financial, physical and emotional loss just so a developer can profit financially. He said your own planning staff does not recommend that this zoning petition be approved, please do the right thing and deny this petition.

Dan Grundman – 5430 Ashbury Lane, Davidson, NC stated that he moved to River Ridge last summer and one of the reasons he moved out there was the beauty of the area and the rural aspect and my wife and two kids would grow up in a fine place. He said he looked at the parcel, the county map, and the zoning plan and appreciates what you did, it was a fine job. He thinks if you vote for this change you will be sending a message to these people that you did not really have a vision and a plan. You will be sending a message not only to these people but to the whole county that you do not stand up for people and that you cannot maintain your vision. He asks each of you to maintain the vision for that part of the county and all county. He said development will happen, we know that homes will go up and residential areas will build, we are prepared for that but we are not prepared for this. He would not have chosen to live where he does if it were zoned differently.

The following people spoke in favor of Petition C2006-02(R):

Mr. Ron Wilson 1175 Ashford Green Avenue, Concord, NC, President, of Automation Technology, Concord, NC. He said he is obviously going to be in the minority, he has several friends and relatives here tonight. He grew up across the street from this property and he still owns the original property purchased by his father. He said because of Mr. Wallace's generosity this property or a part of it has been used as the church fellowship center for many years. Unfortunately over the years a lot of this property has been neglected and is now an eye sore. He said he has taken the liberty to discuss the project with Keith Wayne who is a friend of his. He believes this is the type of investment that the community needs for revitalization of that area. He said that Mr. Wayne has assured him that his commercial development program will be of superior quality and bring new opportunities to the local residents of the community. Mr. Wilson said he believes that and in his opinion the offerings that this endeavor will bring to the community will offer new opportunities across the board to the community. He said as a property owner he supports this plan, he believes it is good for the community and knowing Keith Wayne as well as he does he has to support him in this endeavor because he is the right guy for it. He said we are not bringing in an outside investor or an outside contractor to do this; we have a local guy that has an excellent, excellent reputation in this industry. He said he was fortunate to serve on the Board of Directors for the Chamber of Commerce and on the Economic Development Committee of this county with Keith Wayne, his reputation and integrity is impeccable. He said you need to take a lot of this into consideration; you may not

pass this tonight, there are a lot of people opposed to it and he would ask a lot of these individuals to become better acquainted with what Mr. Wayne is offering. He said I thank you for your support.

The Chair asked Mr. Wayne, given the testimony resistance you heard here tonight if he wants the board to proceed.

Mr. Wayne said he was just speaking with Mr. Moore and requesting of him to make sure they are procedurally correct. He said they feel like there are answers to many of the concerns and that they are no doubt ahead of themselves with this rezoning request. He said they do need more time to address these and to reconsider their needs and their request to this commission. He asked that the Board table this request for the evening and allow them to go back and consider a different approach to the rezoning process that will give the community a chance to understand what their request are in more specific terms and to resubmit to this commission for a conditional use rezoning.

Mr. Berg said he wanted to be clear on something, Mr. Wayne asked that it be tabled but he said he was going to come back with a conditional use, which would be a different application would it not?

Mr. Jonathan Marshall, Director of the Commerce Department stated that the standard is if the rezoning is more restrictive the request is more restricted, so if he amends it from the general industrial and general commercial straight rezoning with all uses if its say just a general commercial special use and is more restrictive including only a set amount of uses in addition with some conditions then it can move forward. He said the answer is as long as it is getting more restrictive than the rezoning the petition would not have to be resubmitted. Mr. Marshall said one option you have is in order to make sure you are hearing all input on that rather than close your public hearing this evening, if you choose to table it you may wish to continue your public hearing and that way the individuals who spoke would have the chance again to respond to any amended plan. He said essentially it would be like a new petition.

The Chair asked for a motion for or against tabling the petition,

Ms. Daugherty **MOTIONED, SECOND** by Mr. Berg to not table the petition.

Ms. Jane Shoemaker asked if Mr. Haas was going to be allowed to vote.

Mr. Haas said he would address her question, he was going to wait until after this but he will be glad to address it. He said first of all he wish that all of them would come back next time, he wish that you could have been here last meeting because we do other things that impact you as well but only when it is beside of you can we get your input. He said we would like to have you come back anytime; it would make our job easier if you would come and express your opinions so please come back. He said we do have other things that may not be in your neighborhood but will impact you sometime in the future and you need to be here for those as well.

Mr. Haas said to Ms. Shoemaker, we have never met before that he remembers or that he knows of and that she mentioned a letter that was written and he is not sure who it was from. He would just like to state for the record that he has not seen that letter and he does not know what the letter would have entailed. He has never had a discussion with anybody in city office or any city official or anywhere, if this was done before he became a councilman that is possible but he states for the record that he has never seen the letter that you mentioned and he has never been involved in any discussions whatsoever. He said the way she presented it made it appear that in some way he could not be fair in his deliberations. To him, decisions are made on facts and not on emotions or anything like that. He believes the facts that were presented here tonight do not really support this rezoning, because there are too many allowances in a permitted use as it stands right now, that is fact because we do not have any conditions to it whatsoever. He said he will be more than happy to recuse himself, he has no problem with that, he has done it in the past but the board will have to vote to allow him to recuse himself and he will be more than happy to make that recommendation but he also states for the record that if you had allowed him to vote he would have voted against this proposal, so you did not gain a vote, you lost one. He just wanted to state that for the record.

Mr. Haas asked the Board to recuse him from voting on this issue and ask that he not be involved in any of the deliberations.

The Chair asked for motion.

Mr. Berg **MOTIONED, SECOND** by Mr. Fesperman to recuse Mr. Haas from voting and any deliberations on Petition C2006-02(R), Wayne Brother Inc. request for rezoning.

The vote was unanimous. Mr. Haas recused himself and Mr. Eugene Divine, replaced him on the board.

The Chair stated that there is a motion on the floor and a second that we not table the petition. He asked if there were any further discussion on that motion.

Mr. Prince asked if there was a difference between tabling the petition, the end result is going to be the same. He asked if we table the petition he is going to come back with an amendment based on a conditional use application.

Mr. Marshall said that is correct, functionally, if you deny the petition he has the ability to come back with another petition to resubmit to you. He said tabling the petition accomplishes the same thing in essence but it is up to this board.

Mr. Prince asked if the benefit of tabling the decision is that the discussion period remains open.

Mr. Marshall said the benefit either way is that Mr. Wayne has heard the testimony or the information here and can respond to it either with a new petition or with an amended petition. He thinks the benefit is similar under either scenario.

The Chair said there is a motion and second on the floor that we not table it, that we vote on it tonight. He asked if there were any more questions from the commission members.

The vote was 7 to 2 to not table the petition. Opposed were Mr. Prince and Mr. Fesperman.

The Chair asked for motion.

Mr. Berg **MOTIONED, SECOND** Mr. Porter by to deny Petition C2006-02(R),

The vote was unanimous.

Mr. Moore said pursuant to the North Carolina statute changes January 1st the board does have to adopt a statement of reasonableness and consistency when they approve or deny any rezoning request.

Mr. Fesperman said since Mr. Wayne's petition was turned down by us, would his appeal process go before the Board of Commissioners?

Mr. Moore said that is correct.

The Chair asked Mr. Koch what he needed from them to prepare that statement.

Mr. Koch said if the board would like he would prepare the statement for their consideration. He thinks it may affect the time period for the appeal and he thinks the appeal would run from the adoption of that statement, otherwise it is from the time of the action of the board, fifteen days. He said it is not automatic since the vote was a unanimous vote; you met the high vote requirement so it will have to be an appeal if he chooses to take it to the commissioners. He thinks his time period would probably run from the date you adopt your statement of consistency and reasonableness or lack thereof. He said that is a new provision in the statutes.

The Chair said Board is going to allow you to draft it and the board will review and approve it at the next meeting which will extend the appeal fifteen days from that point.

Mr. Koch said he has fifteen days from your final action. He thinks your final action will have to be computed from the date that you adopted that statement. He said it is not as involved as finding of fact. He said you really just need to make a finding that the proposed rezoning either was or was not consistent with the land use plan for that area. He said you also need to find whether it was reasonable and in the general

interest of the public. He said you would make general statements of that sort, it is not detailed findings. He said you could very easily do it this evening if you choose. Mr. Koch said one little complication or wrinkle here is the existing plan that is in effect for that area and then there is the proposed plan which has not been fully implemented or adopted.

The Chair asked if it were inconsistent with both.

Mr. Moore said yes. He said it is inconsistent mainly due to the general industrial portion of the property.

Mr. Koch said the existing zoning is consistent with the plan

The Chair said the OI zoning is consistent with the plan.

The Chair said we can make that finding. He asked if they had to vote on it.

Mr. Koch said it would be preferable if you go ahead and vote on that or you can do it by acclamation if everyone agrees to it.

The Chair asked if everyone agreed with the following findings:

The petition is inconsistent with both the current and proposed land use plan zoning classification and the current zoning is consistent with the proposed plan.

The petition is not in the range of potential uses for the rezoning, it would be incompatible with this area and it is unreasonable and not in the public interest or welfare.

Unanimously agreed

The Chair introduced the fourth item on the agenda, Petition C2006-03(ZT), Definition of Average Lot Width.

Mr. Chris Moore addressed the board stating that this is Petition C2006-03 (ZT) a zoning text amendment to address questions that have been raised about how average lot width is calculated. He said the purpose of this amendment is to eliminate the ambiguity in the Zoning Ordinance and to provide clear definition and calculation for average lot width.

Mr. Moore said if approved this petition will add the following to Chapter 2, Section 2-2 Basic Terms and Definitions of the Cabarrus County Zoning Ordinance.

Lot Width, Average – Measurement of average lot width shall be on an individual basis, not over several lots. For a regularly shaped lot (basically rectangular), two measurements shall be taken; at the front lot line (street frontage) and the rear lot line.

The arithmetic mean lot size shall be used to determine average lot width. When a lot has multiple street frontages, the required lot width shall be measured along the narrowest street lot line (street frontage).

Irregularly shaped lots shall be measured three times, with the arithmetic mean taken from those measurements. Measurement points will be determined on a case by case basis, but shall be roughly at the front, rear, and middle points of the lot.

Enactment of the proposed amendment will provide a definition for average lot width and eliminate confusion over the method by which it should be calculated. This amendment will ensure that the average lot width will continue to be interpreted in the future as it has been in the past.

The Chair asked if there were any questions.

Mr. Haas asked what the amendment says now. What is the ambiguity? Is it that you can use an average of more than one lot? Is that the ambiguity that is there now?

Mr. Moore said there is no definition. He said this is generally the method that has been used since the county adopted the zoning ordinance it was never put in writing.

Mr. Shoemaker said for an example if you have a pie shape lot and you will take a measurement across the front, one across the middle, and one across the end of it and then you will take that average and that will be what you call the lot width. He asked if that would be the way it worked.

Mr. Moore said yes generally, if the front of the lot line does come to a point we would have to move that back a bit, that is why we would allow a little bit of leeway for an area with an irregular shape lot. He said but it would be generally at the front.

Mr. Shoemaker asked if whatever street it is on would the narrowest portion be where you would begin the measurement process. He asked if such a corner lot that might have a flare to it going back would be starting on the narrowest street.

Mr. Moore said yes. He said the other street front would just be a side yard street side set back.

The Chair asked if there were any questions or a motion.

Mr. Prince **MOTIONED, SECOND** by Ms. Daugherty to approve Petition C2006-03 (ZT) as written.

The vote was unanimous.

Directors Report

Ms. Susie Zakraisek, Planning and Zoning Manager, addressed the board stating that the board will be seeing some text amendments in the next few months. She said when the new subdivision standards were adopted we did not adopt any type of setbacks for minor subdivisions. She said we need to go in and add some design standards or criteria for minor subdivisions so there is some consistency as to how that is applied. She said a minor subdivision would be five houses or less and at this time there is the exemption where any zoning district you can put in a one acre lot but we do not really have setbacks established for that. She said with MDR, with a conventional subdivision in the zoning ordinance there are only three zoning districts that permit the conventional zoning district and subdivision along the setbacks, so we need to go in and do some shifting and aligning there so that we are consistent across the board. She said we have also found a couple of typos that need to be fixed so most of it will be housekeeping issues.

Ms. Zakraisek said the first project under the new design standards has come in. She said it is going to be an interesting one because it is a mini storage. She said as long as they proceed with the project you will probably be seeing it with in the next month or two.

The Chair asked if there was anything else to discuss.

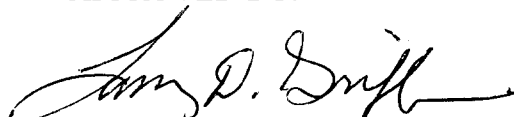
Mr. Fesperman said he would like to make a statement. He said most everyone here has never served on a planning board before, he knows that Larry and Roger have and he served six years with the city. He said in this case tonight, the thing he thinks about and he did not bring it up to the gentlemen because there was so much emotion going on; when he said he was going to remember all of our names etc. He said they think that we are elected and we are appointed and that is the key to that task and that is why our task here is not to get caught up in the emotion of what is going on because we may be out there the next time defending our neighborhood. He said we have to remain detached and vote how we feel; it is not a popularity vote for us here. He said when it passes on to the alderman or commissioners, unfortunately when that brick comes sometimes they will not support our group, they may feel like they have an election coming etc. He said our job here is to hear the case fairly and interpret the laws the best we can and not be intimidated. He said he thinks the board tonight did a very good job. He said we may have other cases like this come forth but we have to be independent and vote our conscientious and not be swayed.

The Chair asked for motion to adjourn.


Mr. Berg **MOTIONED, SECOND** by Mr. Porter to adjourn the meeting

Vote Unanimous.

APPROVED BY:


Larry Griffin, Chairman

SUBMITTED BY:


Arlena B. Roberts

ATTEST BY:

Susie Zakraisek
Planning and Zoning Manager