

**Cabarrus County Government**

---

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

**Agenda**

**1. Roll Call**

**2. Approval/Correction of October 19, 2006 Minutes**

**3. Old Business – Planning Board Function:**

- A. Preliminary Subdivision Plat Approval – Petition C2006-04(S)  
(Tabled from October 19, 2006)  
Cascades at Skybrook  
Westfield Homes of the Carolina, LLC  
11525 Carmel Commons Blvd. Suite 301  
Charlotte, NC 28226

**4. New Business –Board of Adjustment Function:**

- A. Conditional Use Application 752-C  
Dr. Richard Beall  
Carolina International School  
8810 Hickory Ridge Road  
Harrisburg, NC 28075

Request: The applicant is seeking permission to enlarge the existing school facility that was previously approved (68-C).

- B. Variance Application V-117  
Keith Knight  
GFK Builders, LLC  
1306 Troon Drive  
Salisbury, NC 28144

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

**5. New Business - Planning Board Function:**

- A. Zoning Atlas Amendment - Petition C-2006-08 (R)  
Mr. Jacob Archie Smith, Jr. et al  
6590 Highway 73 E  
Mt. Pleasant, NC 28124

Request: (OI) Office Institutional to (CR) Countryside Residential to restore the pre-June 20, 2005, zoning designation to the property.

**6. Director's Report**

**7. Adjournment**

PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
Thursday, November 16<sup>th</sup>, 2006

**Petition:** C2006-04 (S) Preliminary Plat Approval

**Subdivision Name:** Cascades at Skybrook

**Subdivision Type:** Attached Single Family (Town homes)

**Applicant Information:** Westfield Homes of the Carolinas, LLC  
11525 Carmel Commons Blvd.  
Suite 301  
Charlotte, NC 28226

**Zoning:** LDR – Low Density Residential (The proposed site was previously approved as part of the Skybrook master plan in 1999. At that time, the subject property was designated as MDR- Medium Density Residential) The Planning and Zoning Commission decided in September of 2006, that the zoning of this parcel was vested and the developers were allowed to continue based on their plans for the property as approved in 1999 under MDR Zoning.

**Township:** Number 3 – Odell

**Property Location:** Harris Rd. & Skybrook Drive

**PIN#:** 4670-45-7728

**Proposed Lots:** 76

**Area in Acres:** +/- 7.13

**Site Description:** The site is currently vacant.

**Adjacent Land Uses:** To the south, the adjacent property is zoned O-I (Office-Institutional) with residential and vacant uses present. Myra's Dream (North Mecklenburg Aquatic Center) is located to the west of the property. The property directly to the north is The Skybrook amenity center. Properties to the east are residential, both being part of the Skybrook Subdivision.

**Surrounding Zoning:** The subject property is surrounded by Low Density Residential zoning to the north and east, Office-Institutional zoning and Concord zoning of C-2 to the south and Special Use Office-Institutional zoning to the west.

**Infrastructure:** The proposed subdivision will be served by a CMUD (Charlotte-Mecklenburg Utility Department) water and sewer system.

**Exhibits:** 1. Site Map  
2. Preliminary Plat

PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
Thursday, November 16<sup>th</sup>, 2006

3. School Adequacy Worksheet
4. CMUD intent to serve letter

**Code Considerations:**

The MDR district is a medium density residential zoning district. The minimum lot size is 10,000 sq. feet under traditional development. Under customized standards, the maximum density is 4.5 units per acre.

Development standards for the customized development option are:

- Front setback- 30' front setback on 50% of lots, flexible for the remainder.
- Side yard setbacks- Flexible
- Rear yard setbacks- Flexible
- Maximum impervious surface- 40%
- Maximum structural coverage- 30%

A minimum of 30% open space is required for this development. The required open space has been provided throughout the Skybrook Subdivision.

**Adequate Public Facilities:**

**Cabarrus County Schools- Robert Kluttz:** Schools that serve this area are inadequate at this time. (Please see attached school adequacy worksheet for details.)

**Soil and Erosion Control:**

**Thomas Smith:** The applicant will be required to submit soil and erosion plans before commencing any land disturbing activities.

**NCDOT:**

**Leah Wagner:** The NCDOT finds no issues with the site plan. The only request is for a driveway permit to be issued for the project.

**Fire Marshall's Office:**

**Steve Langer:** No Comments

**Analysis:**

The subject parcel was rezoned from MDR to LDR per countywide rezoning changes on June 20, 2005. The number and type of units (multifamily/town home) were originally approved under the Skybrook Master Plan, and were vested at the time of the countywide rezoning. Therefore, the design will follow the zoning regulations of MDR under the 1999 Cabarrus County Zoning Ordinance. Open space requirements will be met through the overall Skybrook Master Plan, so long as residents of this town home subdivision are part of the Skybrook Homeowner's Association and have access to all amenities.

**Land Use Plan:**

The draft version of the updated Cabarrus County Northwestern Area Plan recommends that the subject property be developed as residential, with a density of 1-3 units per acre. This draft plan was utilized in 2005 when the zoning for the county was updated and the current zoning of

PLANNING STAFF REPORT  
CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
Thursday, November 16<sup>th</sup>, 2006

LDR was assigned. The proposed subdivision meets the overall residential component of the draft Northwestern Area Plan. However, it exceeds the intensity of residential development specified in the plan for the parcels under consideration. LDR is a zone that does not allow for town homes.

According to the Northwestern Small Area Plan of 1990, which the subject property was originally approved under, the subject property was originally zoned MDR (Medium Density Residential) and allowed for town homes.

**Recommendations:**

Should the Planning Commission grant approval of the subdivision, it is requested that the following conditions be added:

1. The developer shall pay \$500.00 per lot as designated in the Consent agreement for the Skybrook Subdivision to address school adequacy. (Schools/APFO)
2. The developer shall obtain proper driveway permits from NCDOT. (NCDOT/APFO)
3. The developer shall gain approval by the Division of Environment, Health, and Natural Resources for the connection of water and sewer. (CMUD)

## Adequate Public Facility Worksheet – Schools

Please fill out the following questionnaire regarding the The Cascades at Skybrook. This project is on the October 19, 2006 Planning and Zoning Commission meeting for consideration. Your response is required by October 10, 2006 for inclusion in the staff report to the Commission.

Please see the enclosed map and project detail sheet for location and information regarding the proposed development. If you need additional information for this project please contact Colleen Nelson @ 704-920-2149 or Canelson@cabarruscounty.us.

### Questions

1. At present students from the proposed development would attend the following schools:

Elementary - Cox Mill

Middle - Harris Road

High - Northwest Cabarrus

2. Using the most recent attendance figures, these schools are at what percent of their stated capacity? **Month 1, September 25, 2006.**

Elementary - 121.03%

Middle - 99.25%

High - 111.79%

3. How many students are expected from this development?

**Based on 78 townhouses**

Elementary - 18

Middle - 7

High - 6

4. Including previously approved subdivisions these schools will be at what percent of their stated capacity when the proposed development is completed?

Elementary - 154.55% **note: 800 seats will be gained with the opening of the new Carl Furr Elementary School. This should reduce stated capacity to approx. 85.00%.**

Middle - 133.76%

High - 140.71%

5. The schools currently available in this area can or cannot accommodate the additional students expected from this development? **(if the answer above is "can", please stop here)**
6. If this development cannot be served by existing schools, are any steps planned within the next two years to address this service delivery issue? Yes / No. If yes, please describe the steps that will be taken (use an additional sheet if necessary). Are these changes in an adopted capital improvement plan or has funding been identified?

In the 15 Year Facility Plan a new elementary school is scheduled to open in the August, 2007 in the first funding cycle.

7. If there are not plans for new school facilities in the next two years, please describe the additional resources required to adequately serve the proposed development (attach an additional sheet if necessary)?

Additional capital funding needed for a new high school (2010), a new middle school (2011), and a new elementary school (2011) in the northwest area.

8. Are the improvements described in question 7 above included in an adopted capital improvement plan or has funding been identified? Yes / No

The new elementary school, new middle school, and new high school mentioned in question 7 have been included in the Revised Critical Facility Projects presented to the BOE on April 27, 2006. **Funding has not been identified.**

*This form was completed by: Robert C. Kluttz Date: October 5, 2006*



**CHARLOTTE**  
CHARLOTTE-MECKLENBURG  
UTILITIES

July 26, 2006

Beverly Amerson  
Design Resource Group  
1230 W. Morehead Street  
Suite 214  
Charlotte, NC 28208

**SUBJECT: WILLINGNESS TO SERVE  
THE CASCADE @ SKYBROOK  
11124 & 14328 HARRIS ROAD**

In response to your request, a willingness to serve study of the subject site has been completed and the following applies:

The subject property is located within the intended service area of Charlotte Mecklenburg Utilities. Upon completion and acceptance of all necessary sewer lines, Charlotte-Mecklenburg Utilities agrees to serve this project. This willingness to serve is based on the existing capacity of the designated publicly owned treatment works; which is contingent upon final acceptance and issuance of a discharge permit from the appropriate local, State, or Federal Agency, whichever might have control.

Upon completion and acceptance of all necessary water mains to serve the subject site, Charlotte-Mecklenburg Utilities agrees to serve this project. The water quality to the subject project is regulated by the State Drinking Water Act Amendments of 1986 and, The Water Supply Management Plan, dated October 11, 2005. (WSMP # 05-01702 & PWS ID # 0160010), on file with the Public Water Supply Section of NCDENR. However, C-MU cannot guarantee a constant pressure or quality of flow. This agreement is also contingent upon approval by the Division of Environment, Health, and Natural Resources.

Charlotte-Mecklenburg Utilities does not expect any of the above conditions to preclude water or sewer service to the subject site. However, the applicant should understand that due to the involvement of other agencies and continuing growth of the water and sewer system, the ability to provide service for future projects cannot be guaranteed nor reserved. Connection to the C-MU system is accepted on a first come, first served basis.

Thank you for your interest in Charlotte-Mecklenburg Utilities. If you have any questions, please contact me at (704) 391-5107

Sincerely,

**CHARLOTTE-MECKLENBURG UTILITIES**

Philip S. Johnson  
Customer Service Division, New Services Section

**CHARLOTTE-MECKLENBURG UTILITIES**  
Customer Service Division • New Services Section

[www.cmutilties.com](http://www.cmutilties.com)  
5100 Brookshire Boulevard  
Charlotte, NC 28216  
Ph: 704/399-2221  
Fax: 704/393-2219

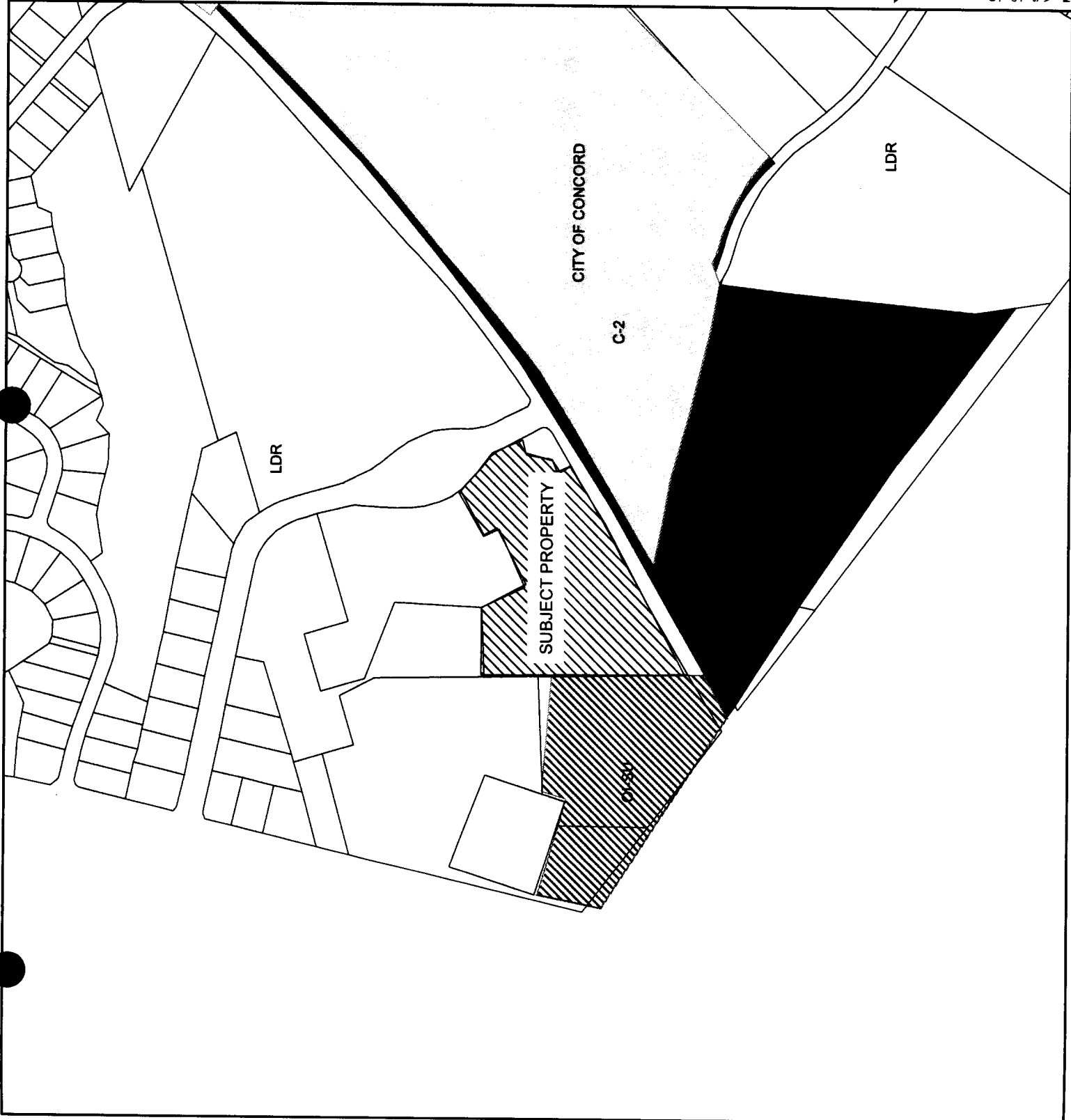


**The Cascades at  
Skybrook**

Westfield Homes of  
the Carolinas, LLC

Case: 2006-04 (S)

PIN: 4670-45-7728



290 145 0 290 Feet



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

Map Prepared by Cabarrus County Planning Services, August 2006.

CABARRUS COUNTY  
Post Office Box 707  
Concord, North Carolina 28026

Application Number C-752

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

The Board of Adjustment for the County of Cabarrus, having held a public hearing on November 16, 2006, to consider application number C-752, submitted by Dr. Richard Beall, Carolina International School, a request for a conditional use permit to enlarge the existing school facility that was previously approved (68-C), and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

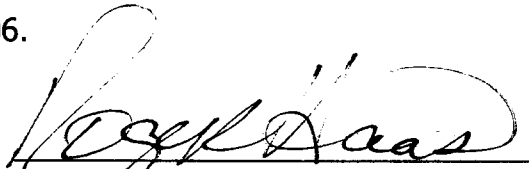
1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.
4. It is the Board's Conclusion that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, the use assumes the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical developments of the County as embodied in the Ordinance or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

7.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of a CONDITIONAL USE PERMIT be GRANTED, subject to the conditions contained in the staff report, if any, and the Findings of Fact. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

Ordered this 16th day of November 2006.

  
Chairman of the Cabarrus County  
Planning and Zoning Commission

  
Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 12-25 of the Ordinance.

**Exhibit 1**  
**FINDINGS OF FACT**  
**APPLICATION C-752**

1. The Board adopts as its own findings the responses of the applicant under the general and specific requirements section of the application.
2. The Applicant will meet all NCDOT regulations.
3. The overall square footage will not exceed 181,000 square feet.
4. The site must meet be in compliance with the current flood plan ordinance by August 1, 2007.

FINDINGS OF FACT

Final Decision

Application: 752-C

Motion	To Grant	To Deny
--------	----------	---------

Applicant: Dr. Richard Beall  
Carolina International School  
8810 Hickory Ridge Road  
Harrisburg, N.C. 28075

Vote	For	Against
------	-----	---------

Owner: Paul Pigue, ATX LLC  
605 Houston Street  
Richmond, TX 77469

Granted	Denied
---------	--------

Zoning: Countryside Residential (CR)

Location: 8810 Hickory Ridge Road  
Harrisburg, N.C. 28075

Size: 35.37 acres

PIN: 5516-45-5535

Request: The applicant is seeking permission to enlarge the existing school facility that was previously approved (68-C)

Advertisement Information:

- A. Sign Requested 11-01-2006
- B. Newspaper Sent 11-01-2006
- C. Adjacent Property Letters Mailed 11-01-2006

Additional Facts:

1. The applicant has submitted a complete application form and the information required by the Cabarrus County Zoning Ordinance for a Conditional Use Permit.
2. The adjacent property owners have been notified by mail. The letter and a list of those contacted are included in the packets.

**CASE # C-752**

**APPLICANT: Carolina International School**

**DATE: November 16, 2006**

**EXHIBIT #1**

3. The notice of public hearing was published on November 5<sup>th</sup> and November 9<sup>th</sup> of 2006 in the Cabarrus Neighbors and November 2<sup>nd</sup> and November 9<sup>th</sup> of 2006 in the Independent Tribune.
4. A zoning public hearing sign has been placed on the property advertising the time and place of the public hearing.
5. In 2004, Carolina Charter International School applied for, and received, a Conditional Use Permit for a public school. The preliminary site plan indicated that the size of the facility would not be more than 60,000 sq. ft. at the time of the final build out. After operating out of temporary buildings on the site for two years, the applicant is ready to construct the permanent facility. However, due to the success of the school thus far, the new permanent facility needs to be expanded. The school will be approximately 180,000 sq. ft at final build out (see site plan).

Since the new plans for the facility are much larger than what was originally approved, all parties involved agreed that the original conditional use needed to be amended.

6. Staff recommends that if the Board chooses to approve the new facility, that certain conditions be placed on the applicant. They are as follows:
  - With the expansions that are planned for present, it is required that the existing entrance be widened to accommodate two (2) inbound lanes.
  - With the "future expansion", a right turn lane will be required on Hickory Ridge Road.
  - Applicant will submit plans for "future improvements" to NCDOT for review and approval to assess the impact on the State maintained facilities.
  - The overall square footage for the permanent school facility at build out shall be less than 181,000 sq. ft.



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

Application Number <u>752-C</u>
Date <u>10/19/06</u>

<b>CONDITIONAL USE APPLICATION FORM</b>			
Circle Jurisdiction That Applies:			
<u>Cabarrus County</u>	<u>Town of Midland</u>	<u>Town of Mt. Pleasant</u>	<u>Town of Harrisburg</u>

**The Conditional Use Process:**

A conditional use is necessary when a proposed land use may have some consequences that may warrant review by the Board of Adjustment. This review is to insure there will be no detrimental effects to surrounding properties nor will it be contrary to the public interest.

In order to apply for a for a conditional use 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 conditional use, the applicant must provide the requested information 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 conditional use 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.

**TO THE BOARD OF ADJUSTMENT:**

I, HEREBY PETITION THE BOARD OF ADJUSTMENT TO GRANT THE ZONING ADMINISTRATOR THE AUTHORITY TO ISSUE A CONDITIONAL USE PERMIT FOR THE USE OF THE PROPERTY AS DESCRIBED BELOW.

Applicant's Name <u>Dr. Richard Beall, Director, Carolina International School</u>	Property Owner's Name <u>Paul Pigue, ATX LLC</u>
Applicant's Address <u>8810 Hickory Ridge Road</u> <u>Harrisburg, NC 28075</u>	Property Owner's Address <u>605 Houston Street</u> <u>Richmond, TX 77469</u>
Applicants Telephone Number <u></u>	<u>704-455-3847 ext. 6</u>

**Parcel Information**

Existing Use of Property <u></u>	<u>Public Charter School</u>
Proposed Use of Property <u></u>	<u>Public Charter School</u>
Existing Zoning <u></u>	<u>Countryside Residential</u>

Property Location 8810 Hickory Ridge Road  
 Property Acreage 35.37 Acres  
 Tax Map and Parcel Number (PIN) 5516-45-5535

**Land Use of Adjacent Properties**

(Provide Plat Map if Available)

NORTH	<u>Single Family Home</u>
SOUTH	<u>Undeveloped</u>
EAST	<u>Undeveloped</u>
WEST	<u>Single Family Home</u>

**General Requirements**

1. The Zoning Ordinance imposes the following general requirements on the use requested by the applicant. Under each requirement, the applicant should explain, with reference to the attached plans, where applicable, how the proposed use satisfies these requirements.

The Board must find that the uses(s) as proposed "are not detrimental to the public health, safety or general welfare."

The Carolina International School is an International Baccalaureate and Environmental Public Charter School and is currently operating on this site under a Conditional Use Permit. The school needs to expand to accommodate the growth of its student population permitted by its public charter from a K-9 to to a full K-12 school and proposes construction of a permanent high school building.

The Board must find that the use(s) as proposed "are appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc."

Please review the traffic analysis included in the application to support no impact to adjacent roadways. Adequate water supply has been tested and approved by pressure flow test for sprinkler systems and domestic water uses. Fire access, waste disposal, and all proposed features have been indicated on the site plan included with this application.

The Board must find that the use(s) as proposed "will not violate neighborhood character nor adversely affect surrounding land uses."

The Carolina International School is currently occupying the site and proposed developments to the site will include a Level 2 Buffer rather than a Level 3 Buffer which exceeds the minimum requirement. The proposed development is designed to for minimal site disturbance in accordance with the school's environmental mission.

The Board must find that the use(s) as proposed "will comply with the general plans for the physical development of the County or Town, as embodied in the Zoning Ordinance or in the area development plans that have been adopted."

The current use of the site is permitted under Countryside Residential Conditional Use.

---



---



2. The Zoning Ordinance also imposes SPECIFIC REQUIREMENTS on the use(s) requested by the applicant. The applicant should be prepared to demonstrate that, if the land is used in a manner consistent with the plans, specifications, and other information presented to the Board, the proposed use(s) will comply with specific requirements concerning the following:

Nature of use (type, number of units, and/or area):

Public K-12 Charter School

---

---

Accessory uses (if any):

None

---

---

Setback provisions:

Principle Use

Front: 75'

Side: 20'

Rear: 20'

Accessory Use

Front: \_\_\_\_\_

Side: \_\_\_\_\_

Rear: \_\_\_\_\_

Height provisions:

Principle Use 40'

Accessory Use \_\_\_\_\_

Off street parking and loading provisions: (include calculations)

Please refer to site plan. 12 spaces required, 22 spaces provided.

---

---

Sign provisions: (include sketch drawing with dimensions)

N/A

---

---

Provisions for screening landscaping and buffering: (if required add to site plan)

Please refer to site plan.

---

---

Provisions for vehicular circulation and access to streets: (provide NCDOT permit if necessary)

Please refer to site plan.

---

---

Adequate and safe design for grades, paved curbs and gutters, drainage systems, and treatment or turf to handle storm waters, prevent erosion, subdue dust:

Please refer to site, grading, and erosion control plans.

---

---

An adequate amount and safe location of play areas for children and other recreational uses according to the concentration of residential property:

N/A

Compliance with overlay zones including but not limited to the Thoroughfare Overlay and the River/Stream Overlay Zones:

Please refer to site plan.

Compliance with the Flood Damage Prevention Ordinance:

Please refer to site plan.

Other requirements may be requested by the applicant or specified by the Board for protection of the public health, safety, welfare, and convenience:

**Predefined Standards**

Each individual Conditional Use listed in the Zoning Ordinance may have specific standards imposed. Refer to the Conditional Use section of the Zoning Ordinance for these requirements. Each standard should be addressed in the site plan submitted along with this application.

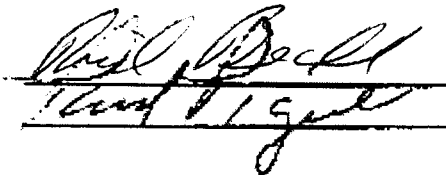
**Required Attachments/Submittals**

1. Printout of names and addresses of all immediately adjacent property owner, including any directly across the street.
2. Scaled site plan containing all requested information above on legal or ledger sized paper. Larger sized copies will be accepted if copies for each Board Member is provided for distribution.

**Certification**

I hereby confirm that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are to the Zoning Department.

Signature of Applicant



Date

10/19/06

Signature of Owner



Date



**Jay Lowe**

**From:** Jana Finn  
**Sent:** Wednesday, October 25, 2006 8:11 AM  
**To:** Jay Lowe  
**Subject:** FW: Carolina International School

**From:** Leah Porch Wagner [mailto:LWagner@dot.state.nc.us]  
**Sent:** Tuesday, October 24, 2006 2:09 PM  
**To:** Jana Finn  
**Subject:** Carolina International School

Jana,

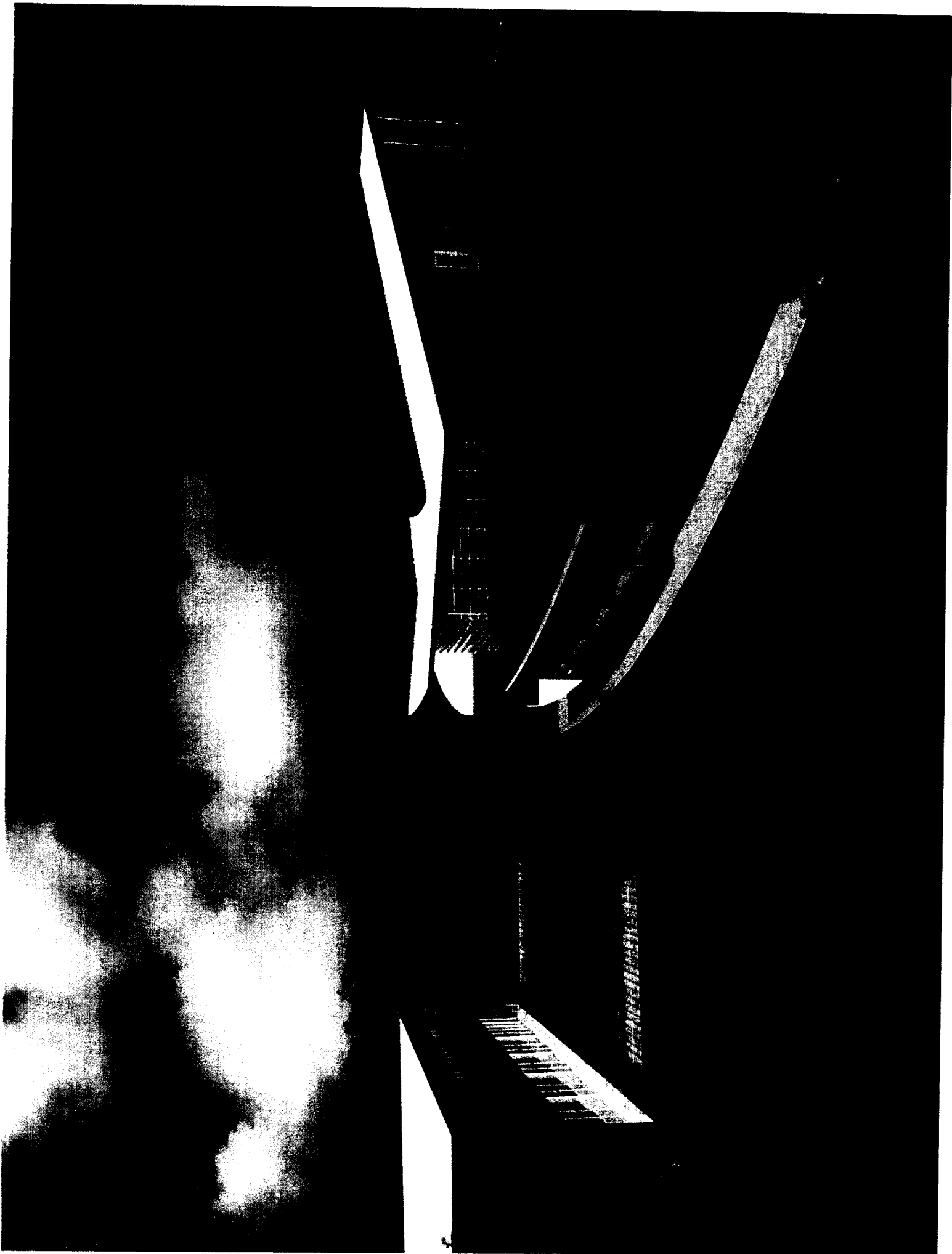
I have reviewed the site plan for Carolina International School on Hickory Ridge Road as well as the Technical Memorandum to the traffic study. The site plan shows expansions that I am assuming to be constructed with approval (I'll refer to those as present) and those that are "future".

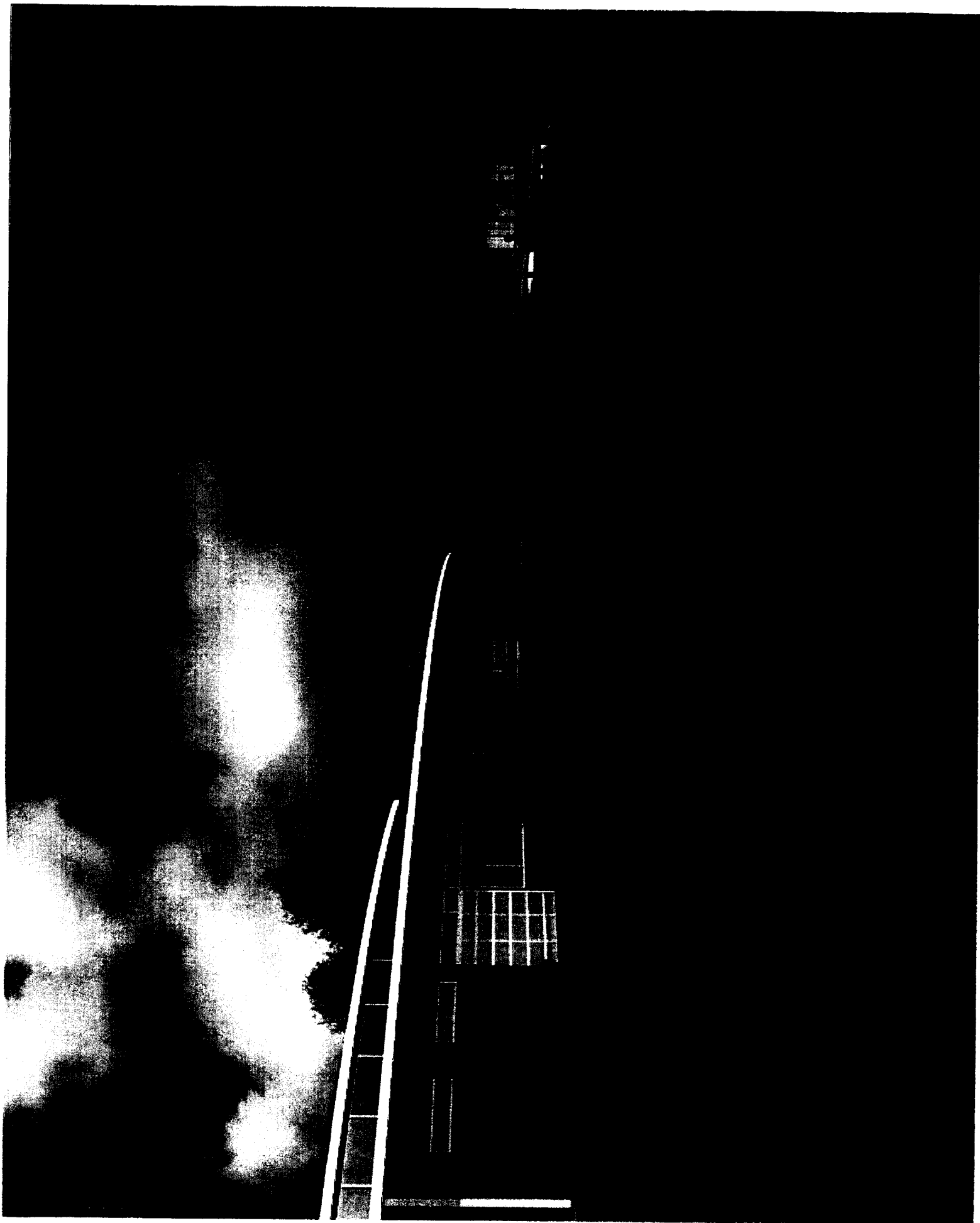
- With the expansions that are planned for present, we will require that the entrance be widened to accommodate two (2) inbound lanes.
- With the "future expansion", a right turn lane will be required on Hickory Ridge Road.
- Applicant will submit plans for future improvement to NCDOT for review to assess the impact on the State maintained facilities.

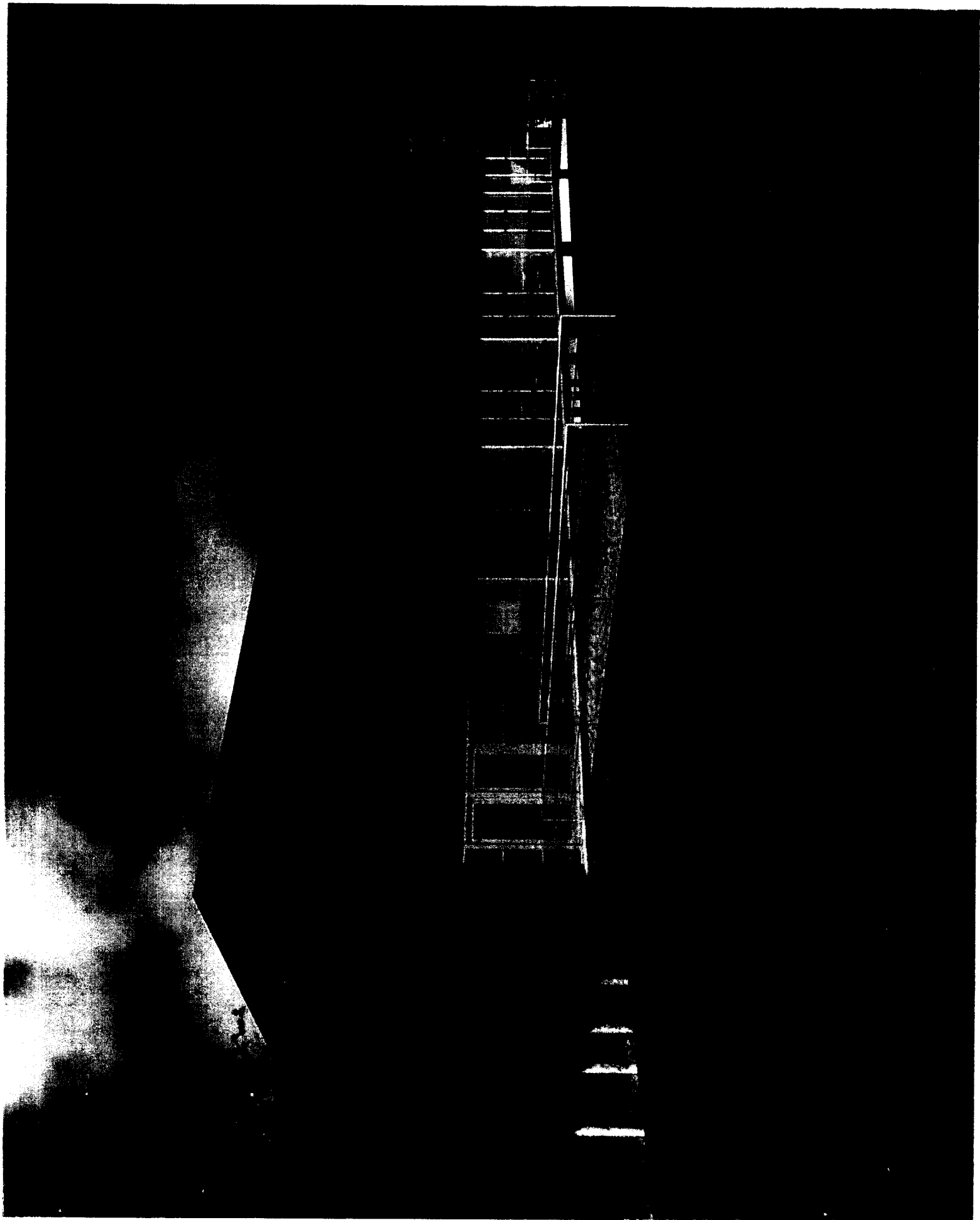
For simplicity purposes, the expansions should be referenced as "Phase I" and "Phase II". These requirements must be conditons of approval.

If I can be of additional assistance, please advise.

Thanks, Leah

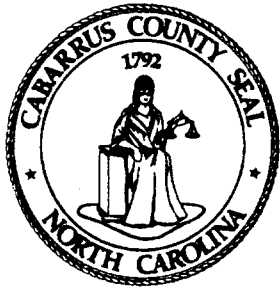












October 31, 2006

Dear Adjacent Property Owners:

This letter is to inform you that Dr. Richard Beall of Carolina International School has petitioned the Cabarrus County Board of Adjustment for a Conditional Use Permit. If granted, the applicant would be allowed to expand their existing facility in order to accommodate the growth of its student population. The existing facility would expand from a K-9 to a full K-12 school and construct a permanent high school building.

There will be a public hearing to decide this matter on November 16, 2006 at the Cabarrus County Governmental Center located at 65 Church Street, Concord, N.C. 28026 (2<sup>nd</sup> floor). The meeting time is at 7 p.m.

The Conditional Use Permit Application is on file with the Cabarrus County Zoning Department. If you have any questions or would like to view the application, please contact our office at 704/920-2140.

Sincerely,

Jay Lowe  
Senior Zoning Inspector

JL/mpf

ADJACENT PROPERTY OWNER'S LIST CASE C-752 Carolina International School

APPLICANT

ATX LLC A NC LLC                    5516-45-5535  
605 Houston Street  
Richmond, TX 77469

ARMSTRONG LANNY D.                5516-35-3661  
DELORESE M  
8929 CHERRY'S FORD COURT  
HARRISBURG NC 28075

BLUME FAMILY FARM LLC        5516-67-8394  
1217 Crescent Avenue  
Gastonia, NC 28052

BUNCH TROY L. & CHRISTINA 5516-45-3899  
3057 Tom Savage Drive  
Harrisburg, NC 28075

CARRIKER ELIZABETH C.        5516-56-5228  
9284 Hickory Ridge Road  
Harrisburg, NC 28075

CARRIKER WILLIAM W JR. &    5516-44-8512  
LAURA L.                            5516-44-3134  
9058 Hickory Ridge Road        5516-54-1896  
Harrisburg, NC 28075

HICKS JESSICA W.                5516-35-9829  
8524 Quay Farm Court  
Harrisburg, NC 28075

KEE JEWEL MAE LIVING TRUST  
JEWEL M WILLETTS                5516-56-3510  
1590 Chatham Drive  
Concord, NC 28027

KING CHRISTOPHER E & TONYA  
8520 Quay Farm Court            5516-35-8922  
Harrisburg, NC 28075

MYERS LARRY BLAIR              5516-35-5812  
8917 Cherry's Ford Court  
Harrisburg, NC 28075

PIEDMONT NATURAL GAS        5516-55-7140  
P.O. Box 33068  
Charlotte, NC 28233

PORTER LAURA B                 5516-34-1913  
3213 Sutton Drive  
Charlotte, NC 28216

R & B PARTNERS A N C            5516-35-2439  
4624 Highway 49 South            5516-35-2357  
Harrisburg, NC 28075            5516-35-1274

REEDY MERLE E JR. & NANCY B.  
3053 Tom Savage Drive            5516-45-5928  
Harrisburg, NC 28075

ROSS VERNON A ESTATE            5516-34-3637  
9101 McMillan Drive  
Harrisburg, NC 28075

SIGLER CHARLES D & MARIE H.  
8766 Hickory Ridge Road            5516-46-8178  
Harrisburg, NC 28075

STROM PAUL E.                    5516-35-4741  
8923 Cherry's Ford Court  
Harrisburg, NC 28075

TADLOCK GREG & SUSAN            5516-45-0847  
8513 Quay Farm Court  
Harrisburg, NC 28075

THALMAN GARY W & JUDITH C.  
3042 Tom Savage Drive            5516-45-2950  
Harrisburg, NC 28075

**Water Resources, Inc.**

Post Office Box 11269  
4108 Park Road, Suite 406  
Charlotte, North Carolina 28220-1269  
OFFICE (704) 527-2314 FAX (704) 527-1304

April 30, 2004

To: Joe Hughes  
704-841-2567

Dear Sir,

Please be advised that Water Resources, Inc. has the capacity and agrees to provide water to Carolina International School (private school). If you need any additional information, please call our office.

Sincerely,



Dennis C. Abbott  
President  
Water Resources Inc.

### Enrollment Projections for Carolina International School

	2006-7	2007-8	2008-9	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2018-2019
Enrolled: Kindergarten	40	60	60	60	60	60	60	60	60	60	60	60
Enrolled: Grade One	42	63	63	63	63	63	63	63	63	63	63	63
Enrolled: Grade Two	42	63	63	63	63	63	63	63	63	63	63	63
Enrolled: Grade Three	42	42	63	63	63	63	63	63	63	63	63	63
Enrolled: Grade Four	42	42	42	63	63	63	63	63	63	63	63	63
Enrolled: Grade Five	42	42	42	42	63	63	63	63	63	63	63	63
Enrolled: Grade Six	42	42	42	42	42	63	63	63	63	63	63	63
Enrolled: Grade Seven	44	44	44	44	44	44	66	66	66	66	66	66
Enrolled: Grade Eight	44	44	44	44	44	44	44	66	66	66	66	66
Enrolled: Grade Nine	44	44	44	44	44	44	44	44	66	66	66	66
Enrolled: Grade Ten	44	44	44	44	44	44	44	44	44	66	66	66
Enrolled: Grade Eleven			44	44	44	44	44	44	44	44	66	66
Enrolled: Grade Twelve				44	44	44	44	44	44	44	44	66
Total Enrollment per Year	424	530	595	660	681	702	724	746	768	790	812	834

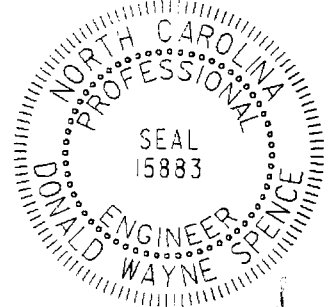


**Charlotte**  
 500 West 7th Street  
 Suite 200  
 Charlotte, NC 28202  
 (866) 321-0102  
 (866) 321-0108 fax

**Hampton Roads**  
 200 Professional Drive  
 5th Floor  
 Yorktown, VA 23091  
 (757) 594-1100  
 (757) 594-0011 fax

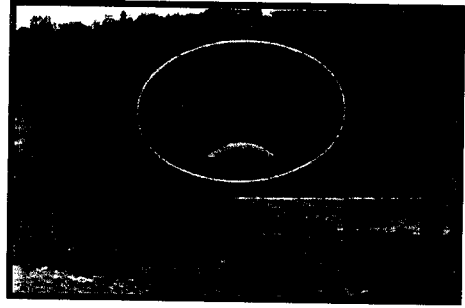
**TECHNICAL MEMORANDUM**

**Date:** September 21, 2006  
**To:** Carolina International School  
 8810 Hickory Ridge Road  
 Harrisburg, NC 28075  
**From:** Donald W. Spence, PE  
 Senior Project Manager  
**Subject:** **Carolina International School Site** – Charter School (k-12)  
 Traffic/Access Evaluation (c06151)



*Donald Wayne Spence*  
 September 21, 2006

Kubilins Transportation Group, Inc. initially produced a technical memorandum for the Carolina International School in February 2004 when the school was still in a development phase (with 520 students). The school is currently in use (418 students), with a projected increase in students to 834 for the 2018-2019 school year. Student drop-off begins at 8:15 AM and dismissal is at 3:30 PM. A copy of the projected student enrollment provided to us by Carolina International School is attached to this document. The purpose of this report is to evaluate the impact that the projected 834 students will have in regards to traffic, if any. We offer the following:



**Location:**

The school occupies approximately 36 acres on Hickory Ridge Road (SR 1138) approximately 1/2 mile south of Rocky River Road (SR 1139) in southwest Cabarrus County (see Figure 1 – Vicinity Map). The property has approximately 900 feet of frontage along Hickory Ridge Road (SR 1138).



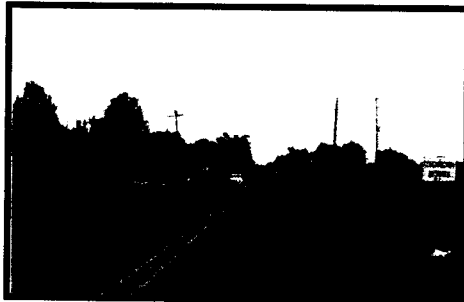
www.kubilins.com  
 866.321.0102  
 866.321.0108  
 757.594.1100  
 757.594.0011

### Roadways:

Hickory Ridge Road (SR 1138) is classified as a minor thoroughfare and runs north-south on the eastern boundary of the school property and intersects Rocky River Road (SR 1139) north of the site. The road is 21 feet wide and maintained by NCDOT and has a posted speed limit of 45 MPH. Hickory Ridge Road (SR 1138) does not have curb, gutter, sidewalks, planting strips, or bike lanes. An existing northbound left turn lane with 175 feet of storage is present on Hickory Ridge at the School Access driveway. Roadway signs and pavement markings designating "School Zone" are present on Hickory Ridge Road for both approaches to the school.



Hickory Ridge Road Facing  
South Towards School



Rocky River Road Facing East to  
Hickory Ridge Road

The intersection of Rocky River Road (SR 1139) and Hickory Ridge Road (SR 1138) is presently operating as a four-way stop sign controlled intersection and is delineated with an overhead flashing warning beacon. All four approaches are single lane. Rocky River Road (SR 1139) runs east-west and provides access to I-485 and Mecklenburg County. Both Hickory Ridge Road (SR 1138) and Rocky River Road (SR 1139) are striped for two-lane, two-way operation.

### Access:

The school access drive is situated approximately 50 feet from the northern property line. The school driveway consists of one entrance lane that tapers into two lanes approximately 225 feet west of Hickory Ridge Road for the entire length of the driveway (approximately 900 feet) and a single exit lane that terminates as an eastbound left turn lane with a right turn lane with 125 feet of storage (100 foot taper). Gravel parking for faculty only is located along the outer perimeter of the driveway.



School Driveway Facing East to  
Hickory Ridge Road

The current plan for developing the site will include approximately 834 students (see attached Figure 2). The driveway is expected to remain the same as its current configuration - with two entrance lanes with a minimum total of over 3,100 feet of on-site storage (with dual stacking from Hickory Ridge Road to the creek) and one exit lane. The dual on-site stacking is expected to commence at Hickory Grove Road and terminate at a point prior to the bridge to be constructed at the creek (approximately 1,075 feet x 2 = 2,150 feet), with single stacking from the bridge to the drop-off point in front of the school building (approximately 900 feet). Gravel parking for faculty is expected to be present along the outer perimeter of the driveway, as is currently the case.

### **Planned Roadway/Intersection Improvements:**

According to a traffic impact analysis (TIA) report produced by Kubilins Transportation Group, Inc. December 2005 (Rocky River Road Site), there is currently an NCDOT North Carolina Moving Ahead (NCMA) project scheduled for Rocky River Road (SR 1139). The project, NCMA 10015R, includes the following improvements on Rocky River Road and Hickory Ridge Road scheduled for future year 2006/2007:

- Rocky River Road (SR 1139) from the Mecklenburg County Line to Old Charlotte Road to be widened to 24' and receive a 1' paved shoulder.
- Intersection of Rocky River Road (SR 1139) and Hickory Ridge Road (SR 1138) to receive left turn lanes on all four approaches with a minimum 150 feet of storage each.

In addition, the following improvements were also recommended in the December 2005 TIA (Rocky River Road Site, the future Hickory Ridge High School, and four additional offsite developments [see Figure 1 for approximate locations]) listed above for the Rocky River Road and Hickory Ridge Road intersection:

- Install a traffic signal.
- Construct an additional eastbound and westbound through lane on Rocky River Road.
- Construct a westbound right turn lane on Rocky River Road with a minimum of 200' of storage and a 20:1 bay taper.
- Construct a southbound right turn lane on Hickory Ridge Road with a minimum of 200' of storage and a 20:1 bay taper (by Cabarrus County Schools for the future Hickory Ridge High School).

Figure 3 shows adjusted 2005 traffic counts to 2006 and the existing laneage at the Rocky River Road/Hickory Ridge Road intersection. The traffic volumes were derived from the December 2005 TIA report described above (counted on October 12, 2005), using a 5% yearly growth rate from 2005 to 2006 (approved per the City of Concord and NCDOT).

### **Trip Generation:**

All of the traffic entering Carolina International Charter School accesses the site from Hickory Ridge Road (SR 1138), via one access point. Based on information from Carolina International School staff, 90 percent of the school traffic is generated from Mecklenburg County via Rocky River Road and, thus, are right turning movements into the site and the remaining 10 percent are left turning into the site.

In order to determine the projected background traffic volumes, the existing turning-movement volumes at the intersection of Rocky River Road and Hickory Ridge Road were increased using a 5 percent yearly growth rate from 2005 to 2010 and a 1.5 percent yearly growth rate from 2011 to 2018. This information was derived from the December 2005 TIA report described above and approved by the City of Concord and NCDOT.



Table 1: Trip Generation

School Type	No. of Students	Daily Trips	AM Peak			PM Peak*		
			Enter	Exit	Total	Enter	Exit	Total
Kindergarten/Elementary School	438	716	242	190	432	116	116	232
Middle School	198	324	109	86	195	53	53	106
High School	198	432	163	86	249	53	110	163
<b>Total Trips</b>		<b>1,471</b>	<b>514</b>	<b>362</b>	<b>876</b>	<b>222</b>	<b>279</b>	<b>501</b>

Reference: MSTC School Traffic Calculator, NCDOT 2004

\* School PM Peak Occurs Prior to Typical Peak Hour, for Informational Purposes Only

- Based on development of a k-12 school with 834 students, the site would generate 876 trips in the AM peak hour (see Table 1). The PM closing hours for the school will not coincide with the normal traffic PM peak hour and is not considered to be a significant factor.
- The maximum peak hour vehicular movement entering the site is expected to be right turning and could number as high as 463 vehicles. Approximately 51 vehicles can be expected to enter as left turning movements from the northbound lane of Hickory Ridge Road during the opening and closing hours for the school.
- The maximum peak hour vehicular movement exiting the site is expected to be left turning and could number as high as 326 vehicles. Approximately 36 vehicles can be expected to exit as right turning movements from the access driveway onto Hickory Ridge Road during the opening and closing hours for the school.
- At 834 students, the maximum directional peak hour volume on Hickory Ridge Road is not likely to exceed 585 vehicles per lane per hour (see Figure 4), which is well below the 1,900 vehicles per hour per lane recognized by the Highway Capacity Manual, published by the Transportation Research Board, as maximum capacity for one lane of roadway. This information is based on a number of variables:
  - The anticipated trip generation of the full k-12 buildout in 2018.
  - The available 2005 traffic counts grown with a 5 percent yearly growth factor to 2010 and a 1.5 percent yearly growth factor from 2011 to 2018 (per the December 2005 report discussed above).
  - Numerous approved offsite developments to be located in the area (per the December 2005 report discussed above) will increase the volume of background traffic dramatically, especially on Rocky River Road and the north leg of Hickory Ridge Road.

**Recommendations:**

Based on discussions with the team and expectations from the reviewing agencies we recommend:

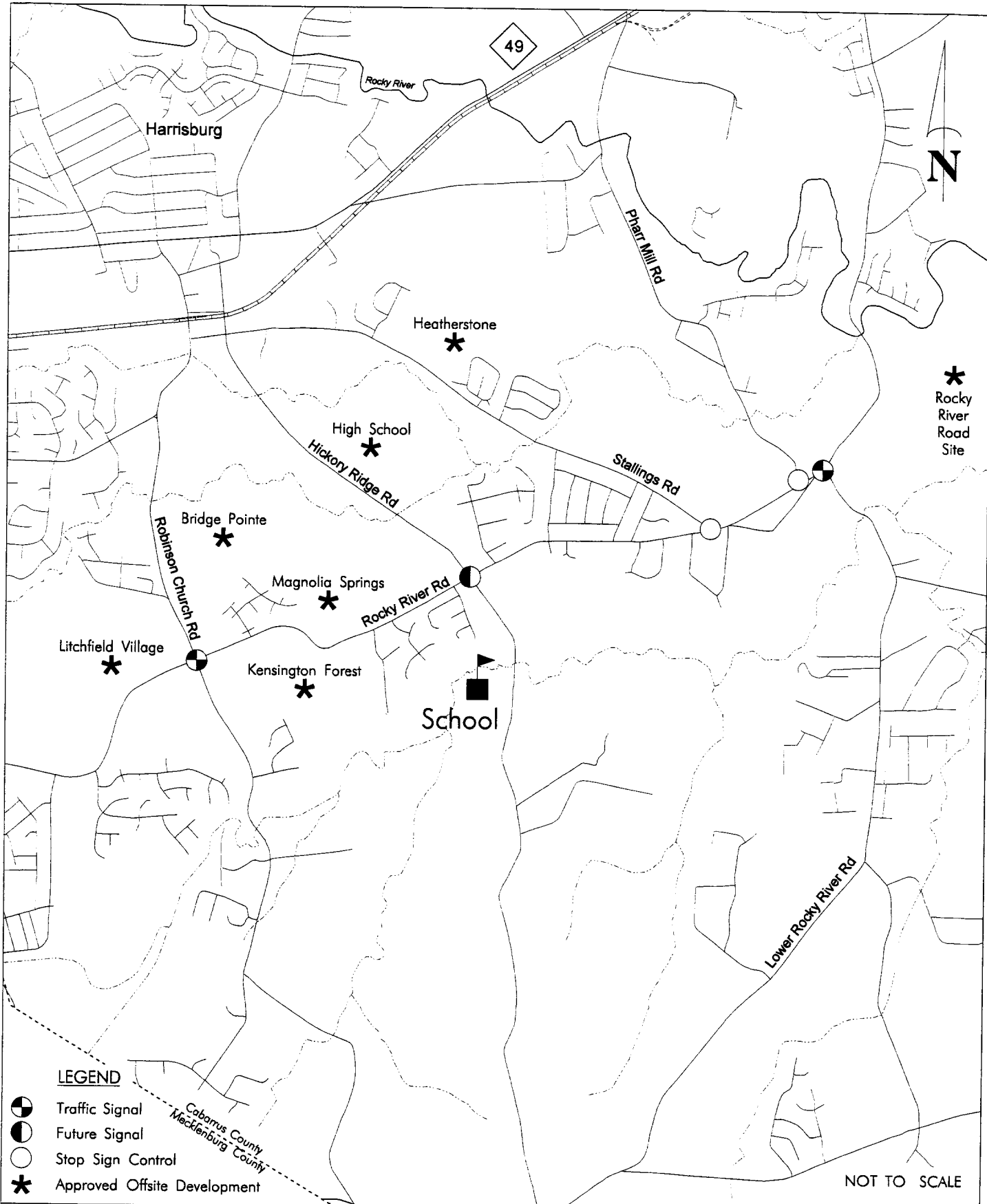
- The circulation route through the site must provide a minimum of 1,850 feet of internal storage for drop-off/pick-up of students. This is based on 834 students and recommended by NCDOT (see attached 2018-2019 Full Campus MSTTA School Traffic Calculations worksheet). Based on the site plan provided to us, there is a minimum of 1,975 feet of on-site storage space with single stacking of vehicles and over 3,100 feet of on-site storage space with dual stacking from Hickory Ridge Road to the creek and single stacking from the creek to the student drop-off/pick-up location. Therefore, we do not recommend any laneage improvements on the school grounds or on Hickory Ridge Road at this time.

Should you have any questions concerning our evaluation and recommendations, please call.

Attachments: Figure 1: Vicinity Map  
Figure 2: Site Plan  
Figure 3: Existing Traffic Counts and Laneage  
Figure 4: 2016 Projected Traffic Volumes  
Figure 5: Laneage Recommendations  
Projected Student Enrollment Worksheet by School Year  
2006-2007 Existing School Year MSTTA School Traffic Calculations Worksheet  
2018-2019 Full Campus MSTTA School Traffic Calculations Worksheet

cc: File





*Kubilins*  
 TRANSPORTATION GROUP, INC.

Carolina  
 International  
 School

Vicinity  
 Map

Figure 1

**NOVEMBER 16, 2006**

**PLANNING AND ZONING COMMISSION MEETING**

**CONDITIONAL USE PERMIT C-752  
CAROLINA INTERNATIONAL SCHOOL**

*"Large"*

**DRAWINGS**

**(SEE FILE)**



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

V-117

Application Number

---

Date

11-16-06

**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  
Keith Knight  
 Applicant's Address  
1306 Troon Dr  
Salisbury NC 28144  
 Applicant's Telephone Number  
704-363-0096

Property Owner's Name  
GFK Builders LLC  
 Property Owner's Address  
1306 Troon Dr  
Salisbury, NC  
 Property Owner's Telephone Number  
704-363-0096

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

SAME  
Single Family  
AO  
10012 Odell Place Rd.  
4083-02-2532.0000

**TO THE BOARD OF ADJUSTMENT**

I, Keith Knight, 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: 5-5

Front set back zoning variance request

2. Reason(s) for Seeking a Variance

Small edge of existing structure over front set back

The front set back is 50'

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 Applicant

K.K.

Date 9-28/2006

**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 strict 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).*

1<sup>st</sup> survey no indication of violation, septic system (ex.5) already installed and approved, footings and foundation septic system in place before I purchased property

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"?)*

footings already in place, septic tank and lines already installed, inspected approved before I purchased the property

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.)

The variance will not affect other property owners if granted.

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?)

The spirit of the ordinance will remain intact. No property owners affected, remainder of subdivision not compromised. (Affect area = 0" → 18" in span of six feet) 5.25 sq ft

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. % of affect area  
.01094

(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?)

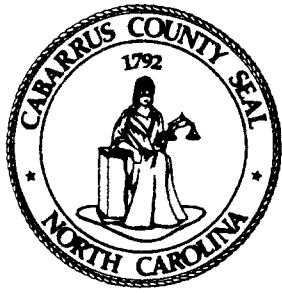
The character of the area will not be altered. Adjacent property owners not affected see ex. 7. (survey showing adjacent buildings. (Lot 3))

**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.







October 26, 2006

Dear Adjacent Property Owners:

This letter is to inform you that Keith Knight of GFK Builders LLC has petitioned the Cabarrus County Board of Adjustment for a Variance. If granted, the applicant would be allowed to place a new dwelling unit approximately 48 ft. 8 inches from a front setback line. Typically, the Cabarrus County Zoning Ordinance calls for at least a 50' front setback. Therefore, Mr. Knight is seeking relief of approximately 1ft. 4 inches.

There will be a public hearing to decide this matter on November 16, 2006 at the Cabarrus County Governmental Center located at 65 Church Street, Concord, N.C. 28026 (2<sup>nd</sup> floor). The meeting time is at 7 p.m.

The Variance Application is on file with the Cabarrus County Zoning Department. If you have any questions or would like to view the application, please contact our office at 704/920-2140.

Sincerely,

Jay Lowe  
Senior Zoning Inspector

JL/mpf



ADJACENT PROPERTY OWNER'S LIST CASE V-117 GFK Builders

APPLICANT

GFK Builders 4683-02-2726  
1306 Troon Drive 4683-02-2532  
Salisbury, NC 28144 4683-02-2275/4683-02-3298

Dickey Lloyd & Peggy 4683-02-4715  
4409 Robins Nest Road  
Concord, NC 28027

Randall Wilbur E. & Kathleen 4673-92-9375  
10002 Odell School Road  
Concord, NC 28027

Smokey Mountain Investments LLC 4673-92-9413  
c/o Beth Alexander  
P.O. Box 1148  
Thomasville, NC 27360

Wallace Billy Ray 4683-02-4591  
4405 Robin's Nest Road  
Concord, NC 28025

CABARRUS COUNTY

Post Office Box 707  
Concord, North Carolina 28026

Variance 117(V)

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A VARIANCE

The Board of Adjustment for the County of Cabarrus, having held a public hearing on November 16, 2006, to consider Variance 117(V), submitted by Keith Knight, GFK Builders, LLC, a request for a VARIANCE to use the property located at 10012 Odell Place Road, Lot #8, Concord, N.C., in a manner not permissible under the literal terms of the Ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. It is the Board's CONCLUSION that, if the applicant complies with the literal terms of the Ordinance, specifically section(s) 12-20, he (cannot) secure a reasonable return from, or make reasonable use of, his property. This conclusion is based on the following FINDINGS OF FACT:

SEE ATTACHED SHEET

2. It is the Board's CONCLUSION that, the hardship of which the applicant complains (results) from unique circumstances related to the applicant's land. This conclusion is based on the following FINDINGS OF FACT:

SEE ATTACHED SHEET

3. It is the Board's CONCLUSION that, the hardship is not the result of the applicant's own actions. This conclusion is based on the following FINDINGS OF FACT:

SEE ATTACHED SHEET

4. It is the Board's CONCLUSION that, if granted, the variance (will) be in harmony with the general purpose and intent of the Ordinance and (will) preserve its spirit. This conclusion is based upon all of the FINDINGS OF FACT listed above, as well as the following:

SEE ATTACHED SHEET

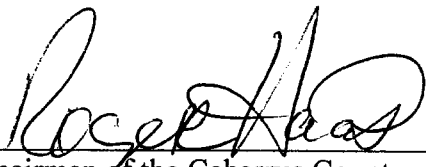
5. It is the Board's CONCLUSION that, if granted, the variance (will) secure the public safety and welfare and (will) do substantial justice. This conclusion is based upon all the FINDINGS OF FACT listed above, as well as the following:

SEE ATTACHED SHEET

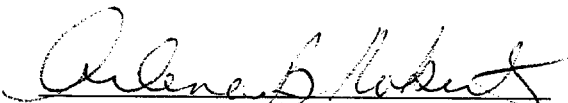
THEREFORE, based upon all the foregoing, IT IS ORDERED that the application for a VARIANCE be (GRANTED), subject to the following conditions:

SEE ATTACHED SHEET

Ordered this 16th day of November 2006

  
\_\_\_\_\_  
Chairman of the Cabarrus County  
Planning and Zoning Commission

12/12/06  
Date

  
\_\_\_\_\_  
Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 81.0 of the Zoning Ordinance.

**FINDINGS OF FACT**  
**Variance V-117**

1. The previous owner placed a foundation approximately 48 ft. 8 in. from the base setback line thus creating non-conformity. The applicant that purchased the property claims that he was unaware of the violation. He tried to buy a portion of the adjoining property in front of the subject parcel that would have rectified the matter. However, the adjoining owner decided not sell. Since Mr. Knight could not purchase the additional property, he is seeking a variance of approximately 1 ft. 4 inches from the Board of Adjustment.

FINDINGS OF FACT

**Final Decision**

Application: V-117

Motion	To Grant	To Deny
--------	----------	---------

Applicant: Keith Knight  
GFK Builders, LLC  
1306 Troon Drive  
Salisbury, N.C. 28144

Vote	For	Against
------	-----	---------

Owner: Keith Knight  
GFK Builders, LLC  
1306 Troon Drive  
Salisbury, N.C. 28144

Granted	Denied
---------	--------

Zoning: Agricultural Open (A/O)

Location: 10012 Odell Place Road  
Concord, NC 28027  
Lot #8 Odell Place Subdivision

PIN: 4683-02-2532

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

Advertisement Information:

- A. Sign Requested 10/26/06
- B. Newspaper Sent 11/01/06
- C. Adjacent Property Letters Mailed 11/01/06

Additional Facts:

1. The applicant has submitted a complete application form and the additional information as required by the Cabarrus County Zoning Ordinance for a variance application.
2. The adjacent property owners have been notified by mail. The letter and a list of those contacted are included in the packets.

**CASE # V-117**  
**APPLICANT: Keith Knight - GFK Builders**  
**DATE: November 16, 2006**  
**EXHIBIT #1**

3. The notice of public hearing was published on November 2<sup>nd</sup> and November 9<sup>th</sup> of 2006 in the Independent Tribune and November 5<sup>th</sup> and November 9<sup>th</sup> of 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 previous owner placed a foundation approximately 48ft. 8in. from the base setback line; thus creating a non-conformity. The applicant that purchased the property claims that he was unaware of the violation. He tried to buy a portion of the adjoining property in front of the subject parcel that would have rectified the matter. However, the adjoining owner decided not to sell. Since Mr. Knight could not purchase the additional property, he is seeking a variance of approximately 1ft. 4 inches from the Board of Adjustment.



Planning Staff Report  
To Cabarrus County Planning and Zoning Commission  
November 16, 2006

NOV 16 2006  
CABARRUS COUNTY  
PLANNING AND ZONING  
COMMISSION

Petition: C2006-08 (R) Zoning Atlas Amendment

Property Owner: Jacob Archie Smith Jr., et al  
6590 Hwy 73 E  
Mount Pleasant, NC 28124

Existing Zoning: O/I - Office Institutional

Proposed Zoning: CR - Countryside Residential

Purpose: To restore a residential zoning designation to the property.

Township: Number 8 – Mount Pleasant

Property Location: Property is located at 6600 NC Hwy 73 E near Mount Pleasant. The properties front on both NC 73 and NC 49.

PIN#: 5660-35-3579, 5660-26-4307, 5660-25-4510, 5660-25-8595, 5660-36-2766, 5660-24-5308

Area: +/- 126.842 acres

Site Description: The subject properties are currently used for residential and agricultural uses.

Zoning History: The property was rezoned during the June 2005 mass rezoning from LDR-Low Density Residential to O/I-Office Institutional.

Area Relationships: North: CR and O/I  
South: CR and O/I  
West: CR  
East: Town of Mount Pleasant RL

Exhibits:

1. Vicinity Map
2. Adjacent Property Owners
3. List of Permitted Uses in O/I and CR
4. Eastern Area Plan-Future Land Use Map-2003
5. Strategic Plan for Economic Development Future Employment Areas Map (Leak-Goforth Study)
6. Letter from Property Owners

Comments: NCDOT- Shawn Riggs: The Department sees no issues and has no comments regarding the rezoning of the subject parcels from O/I to CR.

Cabarrus County Schools- Robert Kluttz: We see no problem with this parcel being rezoned from O/I to CR.

Code Considerations: Per the Cabarrus County Zoning Ordinance, lands in the Countryside Residential district have a strong rural, pastoral feel. Natural environmental elements such as tree lines, small ponds, rock formations, and manmade elements such as pasture fencing are to be retained, if at all possible. Although the area is capable of handling higher densities of development, development is kept at very low overall densities. Development includes only the standard single family detached dwelling. The site sensitive design concept is carried out through performance based standards on residential development with the technique of "clustering". In general, clustering is an arrangement of physical structures on land with an emphasis on retaining natural areas as open space. It is the primary way in which development can be successfully blended into the rural landscape.

CR is a land use district created as a direct result of the County's systematic area planning process. As a reaction to the growth of the past decade (as much as 80% in some townships) many residents are anxious to see their areas retain the appeal that inspired the resident to make his/her original investment. This district helps implement a growth management philosophy before the fact rather than after. Even when the area has access to public utilities, the overall density will remain relatively low. In summary, the principle purpose of this district is to provide some land area in the County for a permanent country/rural residential life style.

Other Considerations: This property is designated as a future employment growth area in the Strategic Plan for Economic Development that was prepared by the Leak-Goforth Company for Cabarrus County. The study was received by the Commissioners in March of 2006, but maps were provided to the County prior to the mass rezoning that took place in June 2005. These maps were used for guidance in the rezoning process.

In this study, the subject parcels are combined with the parcels to the east (extending to the intersection of NC 49 and NC 73) and were designated as an area that has the potential for development as light industrial (manufacturing/distribution) uses. The area to the east is in the extraterritorial jurisdiction (ETJ) of the Town of Mount Pleasant, so it could not be rezoned by the County to reflect this future land use potential. The future employment designation was assigned to this area because the property is located at the intersection of two major thoroughfares and has the potential to support multiple smaller uses or one large use.

This property is located in the Eastern Land Use Plan Area. This plan was a joint effort between Cabarrus County and the Town of Mount Pleasant. It was adopted by the Mount Pleasant Town Board on November 4, 2002 and by the Cabarrus County Board of Commissioners on June 16, 2003. This plan calls for the subject property to be developed as suburban residential. According to the plan, "this district is the area plan's single-family designation... Housing densities of 1 to 4 unites per acre are appropriate..."

Conclusions:

The Strategic Plan for Economic Development does not support the rezoning of this property to residential. This plan recognizes the significance and potential for the NC 49 and NC 73 interchange to become an important commercial area for the Town of Mount Pleasant and for Cabarrus County due to the convergence of the two major state highways. The Eastern Area Plan supports the rezoning of this property to residential. This plan reflects the desire to preserve farmland and open space.

Recommendation:

The Eastern Area Plan supports the requested rezoning of the subject properties. The Economic Development Plan, however, does not support the rezoning of the subject properties to a residential zoning designation. Therefore, the Commission should consider all the information presented and render a decision according to the Commission's vision for this area of Cabarrus County.

REECE NED C 1103 ROGERS LK RD KANNAPOLIS NC 280810000	REVELLE MEREDITH SUE 1220 LONG FARM ROAD MT PLEASANT NC 281240000	ALLMAN CLARENCE A & WIFE ALLMAN HILDA M 4300 CAUBLE ROAD MT PLEASANT NC 281249319
REECE NED C 1103 ROGERS LK RD KANNAPOLIS NC 280810000	LENTZ CHARLES GILBERT III LENTZ JANET DIANE/WIFE 6790 HWY 49 NORTH MT PLEASANT NC 281240000	FINK DAVID MARK 6435 PRIVATE DRIVE MT PLEASANT NC 281240000
BEAM KENNETH W & WIFE NELL BEAM 618 CEDARWOOD DRIVE MONROE NC 281100000	PAGE ROBERT W & WIFE PAGE TAMARA D 6851 HIGHWAY 49 MT PLEASANT NC 281240000	FOLEY ROBERT J DUDLEY JUDITH M 6455 PRIVATE DRIVE MT PLEASANT NC 281240000
JONES GLENN T & WIFE TAMMY HAWKS 8812 CRESTWOOD DRIVE MT PLEASANT NC 281240000	BROOME DONALD E BROOME RODNEY MARK 835 RUEBENS ROAD SW CONCORD NC 280270000	MOOSE CAROLYN M 2206 MURRAY STREET NEWBERRY SC 291080000
AUSTIN MURLEE S 6730 HWY 49-E MT PLEASANT NC 281240000	ECB LLC A NORTH CAROLINA LLC 797 DAVIDSON DRIVE NW CONCORD NC 280250000	SHEFFIELD FRED LEE & WIFE INA S 6530 HIGHWAY 73 EAST MT PLEASANT NC 281240000
LAMBERT VERN W PO BOX 403 MT PLEASANT NC 281240000	ECB LLC A NORTH CAROLINA LLC 797 DAVIDSON DRIVE NW CONCORD NC 280250000	HILL CLAUDE H & WIFE LENA MAE 6575 HWY 73 EAST MT PLEASANT NC 281240000
LAMBERT VERN W PO BOX 403 MT PLEASANT NC 281240000	NOBLES JOHN RAY JR NOBLES PENELOPE M/WIFE 1007 CHERAW STREET P O BOX 973 BENNETSVILLE SC 295120000	REVELLE GENE TIMOTHY 1254 LONG FARM RD MT PLEASANT NC 281240000
SHOE EARL K 6755 HWY 73-W MT PLEASANT NC 281240000	FINK JOHN LEE JR & WF DEBORAH CAMPBELL SHARON F & HSB PAUL & DAVID M FINK & WF KELLY 6421 PRIVATE DRIVE MT PLEASANT NC 281240000	REVELLE GENE TIMOTHY 1254 LONG FARM RD MT PLEASANT NC 281240000
HELMS LOUIS M JR HELMS ANITA B/WIFE 6910 HIGHWAY 49 NORTH MT PLEASANT NC 281240000	FINK ALAN F & SUSIE W P O BOX 91 NEWELL NC 281260000	REVELLE MARY RUTH LONG 1232 LONG FARM LANE HWY 49 MT PLEASANT NC 281240000
REVELLE MEREDITH SUE 1220 LONG FARM ROAD MT PLEASANT NC 281240000	FINK ALAN F & SUSIE W P O BOX 91 NEWELL NC 281260000	AUSTIN MURLEE S 6730 HWY 49-E MT PLEASANT NC 281240000

RITCHIE JOHN ARCHIE &  
WF DEBORAH H  
6595 HIGHWAY 73 EAST  
MT PLEASANT NC 281240000

TALLEY DAVID M  
6685 HWY 73 EAST  
CONCORD NC 280250000

MULLIS RANDY NELSON &  
MULLIS JOYCE S/WIFE  
6715 HWY 73-EAST  
MT PLEASANT NC 281240000

DANGERFIELD WESLEY G  
6797 HIGHWAY 49  
MT PLEASANT NC 281240000

BROOME DONALD E  
BROOME RODNEY MARK  
835 RUEBENS ROAD SW  
CONCORD NC 280270000

FINK JOHN LEE JR  
6421 PRIVATE DRIVE  
MT PLEASANT NC 281240000

CAMPBELL PAUL D JR & SHARON F  
6431 PRIVATE DRIVE  
MT PLEASANT NC 281240000

BARRIER BOBBY E & WIFE IRIS C  
P O BOX 1351  
MT PLEASANT NC 281240000

JAMES CHARLES A  
P O BOX 68  
MT PLEASANT NC 281240068

HUNEYCUTT THEODORE F  
HUNEYCUTT MARY KAYE/WIFE  
13292 BROOKS ROAD  
STANFIELD NC 281630000

SHEFFIELD FRED LEE &  
WIFE INA S  
6530 HIGHWAY 73 EAST  
MT PLEASANT NC 281240000

SHEFFIELD FRED LEE &  
WIFE INA S  
6530 HIGHWAY 73 EAST  
MT PLEASANT NC 281240000

REVELLE MEREDITH SUE  
1220 LONG FARM ROAD  
MT PLEASANT NC 281240000

REVELLE MARY RUTH LONG  
1232 LONG FARM LANE  
HWY 49  
MT PLEASANT NC 281240000

## **USES IN THE COUNTRYSIDE RESIDENTIAL ZONE:**

### Permitted

Agriculture excluding livestock  
Agriculture including livestock  
Dairy processing  
Family care home  
Group care facility  
Livestock sales  
Nursery/greenhouse  
Single family detached residential

### Permitted based on Standards (PBS)

Accessory apartment  
Auction house  
Bed & breakfast  
Cemetery  
Civic organization facility  
Convenience store with petroleum sales  
Convenience store without petroleum sales  
Gas station  
Home occupation  
Home occupation, rural  
Kennel, private  
Landfill, demolition (one acre or less)  
Mobile home class I  
Mobile office, temporary  
Nursery/daycare  
Public cultural facility  
Religious institution (total seating capacity 350 or less)  
Rest/convalescent home with 10 or fewer beds  
Restaurant excluding drive-thru  
Sawmill  
Stables, commercial

### Conditional Uses

Colleges & universities  
Communications tower  
Elementary & secondary schools  
Multimedia distribution & production complex  
Public service facility  
Public use facility  
Recreational facility, outdoor  
Religious institution (total seating capacity 351 or more)

Religious institution with school  
Rest/convalescent home with more than 10 beds  
Slaughter house/meat packing  
Veterinarian/ animal hospital/commercial kennel

**Uses in the Office/ Institutional Zone:**

**Permitted Uses**

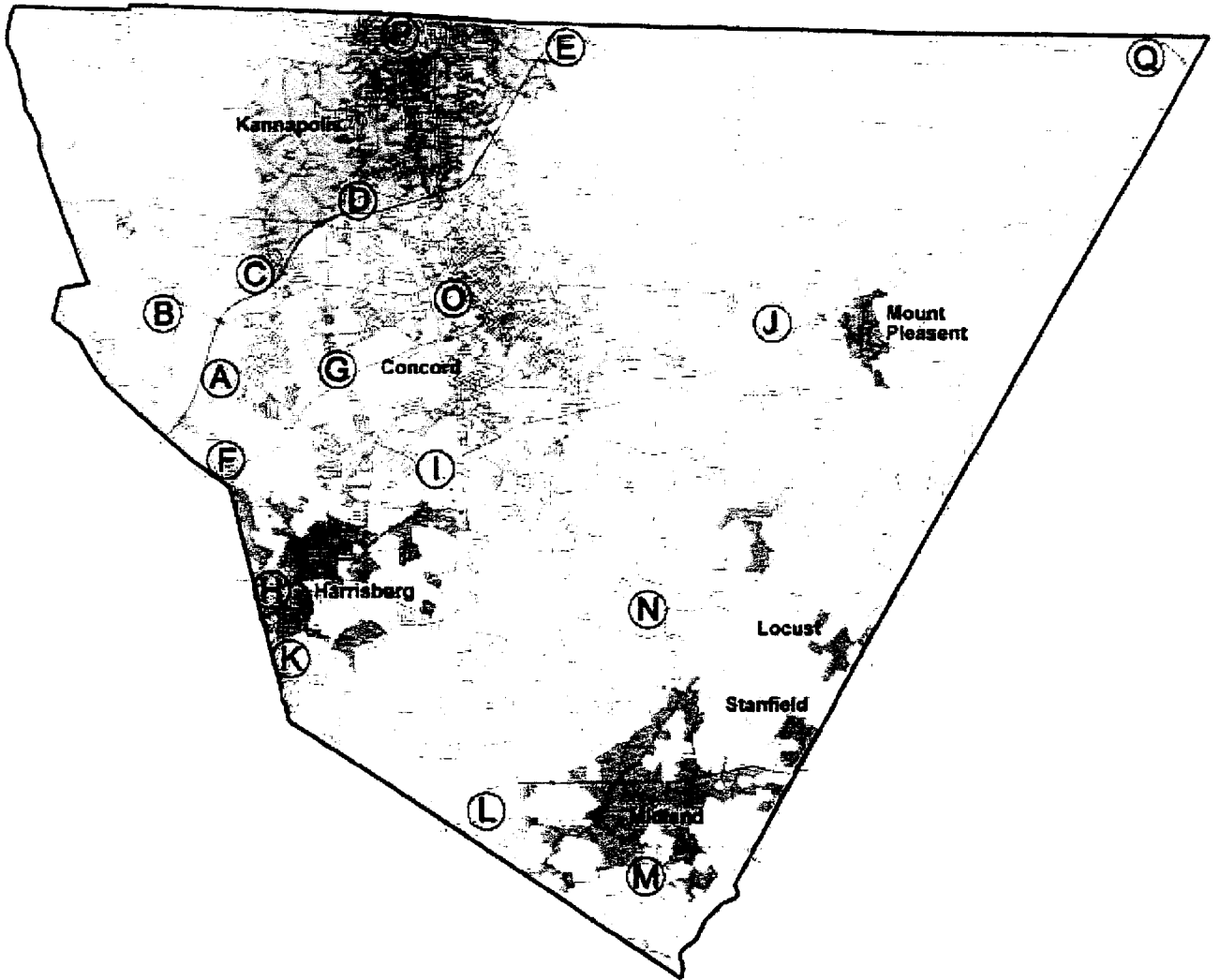
Bank/financial institution/ ATM  
Civic organization facility  
Colleges & universities  
Funeral home  
Group care facility  
Hospitals/ medical facilities  
Office, professional less than 30,000 square feet  
Office, professional greater than 30,000 square feet or more  
Parking lot, commercial or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



**Figure 4-1**

**Potential Office/Industrial Sites Locations  
Cabarrus County, North Carolina**

- |    |  |      |                               |
|----|--|------|-------------------------------|
| A. | Weddington Road/Pitts School Road<br>(between Exits 49 and 52) | I.   | Stough Road Area              |
| B. | Derita Road (near Exit 52)                                     | ★ J. | Mt. Pleasant Area             |
| C. | Kannapolis Parkway/Goodman Road<br>(between Exits 52 and 54)   | K.   | Rocky River Road/County Line  |
| D. | Orphanage Road (near Exit 55)                                  | L.   | Midland Area/County Line      |
| E. | Exit 63 East   | M.   | Midland Industrial Park Area  |
| F. | Morehead Road Area/County Line                                 | N.   | Concord Motorsports Park Area |
| G. | George Lyles Parkway Extension                                 | O.   | Pillowtex Plant Sites #6      |
| H. | Caldwell Road Area/County Line                                 | P.   | Pillowtex Plant Sites #1 & #4 |
|    |  | Q.   | Glenmore Road                 |



Zoning: Philip Morris property (north side US29): 400 acres I-2 (heavy industrial);  
Concord Farms Road (north side US29): 100 acres I-1 (light industrial),  
300 acres CUI-1 (conditional use, light industrial);  
Roberta Church Road (south side US29): 200 acres CD (campus  
development)

Potential: Amenity-oriented business park(s); prime location for a Cabarrus County  
Technology Park

***NC49/Caldwell Road Area/County Line (Site H)***

Location: South side of NC49 at County line; distance to I-485 interchange B 1.3  
miles

Size: 300 acres, including existing industrial development.

Character: Existing industrial area with infill opportunities

Jurisdiction: Cabarrus County and City of Harrisburg

Zoning: Mostly I-1 (light industrial); some I-2 (heavy industrial) and CUI-1  
(conditional use-light industrial)

Potential: General industrial (mfg/dist)

Other: Rail-served site (Norfolk-Southern)

***NC49/Stough Road Area (Site I)***

Location: North and/or south sides of NC 49

Size: Up to 700 zoned acres on north side of NC49  
Up to 200 acres on south side

Character: Existing low end industrial development in general area; north side includes  
existing 140-acre Motorsports Industrial Park; comparatively flat on north  
side of NC49; rolling terrain on south side

Jurisdiction: Cabarrus County

Zoning: LI (limited industrial) and GI (general industrial) on north side;  
mostly LI (limited industrial) on south side

Potential: Light industrial, rail-served industrial, NASCAR test track

Other: Rail-served (Norfolk-Southern) on north and south sides of NC49

***★ NC49/Mt. Pleasant Area (Site J)***

Location: North side of NC49; east of NC73

Size: 200-300 acres

Character: Open rural area; flat to rolling terrain

Jurisdiction: Cabarrus County

Zoning: Mostly LDR (low density residential); some LDR-SU (low density residential-special use)  
Potential: Light industrial (mfg/dist)

***Rocky River Road/County Line (Site K)***

Location: North side of Rocky River Road at county line; distance from I-485 interchange B 0.25 miles  
Size: 300-400 acres  
Character: Attractive residential estate-style flat to slightly rolling open land; new well-designed village shopping center on south side of Rocky River Road  
Jurisdiction: Cabarrus County  
Zoning: 75-100 acres on County line zoned PUD (planned unit development); 300+ acres zoned MDR (medium density residential)  
Potential: Amenity-oriented office park with mid-rise office, flex-office, commercial services; prime location for a Cabarrus County Technology Park, including land adjacent to the I-485 interchange in Mecklenburg County  
Other: Vulnerable to residential development; limited local roads (two-lane rural)

***NC24-27/Midland Area/County Line (Site L)***

Location: South side of NC 24-27; County line to Flowes Store Road; distance to I-485 interchange B approximately three miles  
Size: 700 acres  
Character: Comparatively flat open rural land  
Jurisdiction: Cabarrus County  
Zoning: LC (limited commercial); North side of NC24-27 zoned GC (general commercial)  
Potential: Large-scale rail-served distribution park  
Other: Rail served (Aberdeen Carolina & Western); Designated FE (future employment) on Midland area land use plan; Zoning should be changed to LI (limited industrial) or GI (general industrial)

***US601/Midland Industrial Park Area (Site M)***

Location: US601 south of NC24-27  
Size: Park area is 600 acres (250 acres remaining)  
Character: Comparatively flat open rural area with scattered development; Corning, Inc., owns 240 acres on which stands its optical fibers manufacturing plant, closed in 2002

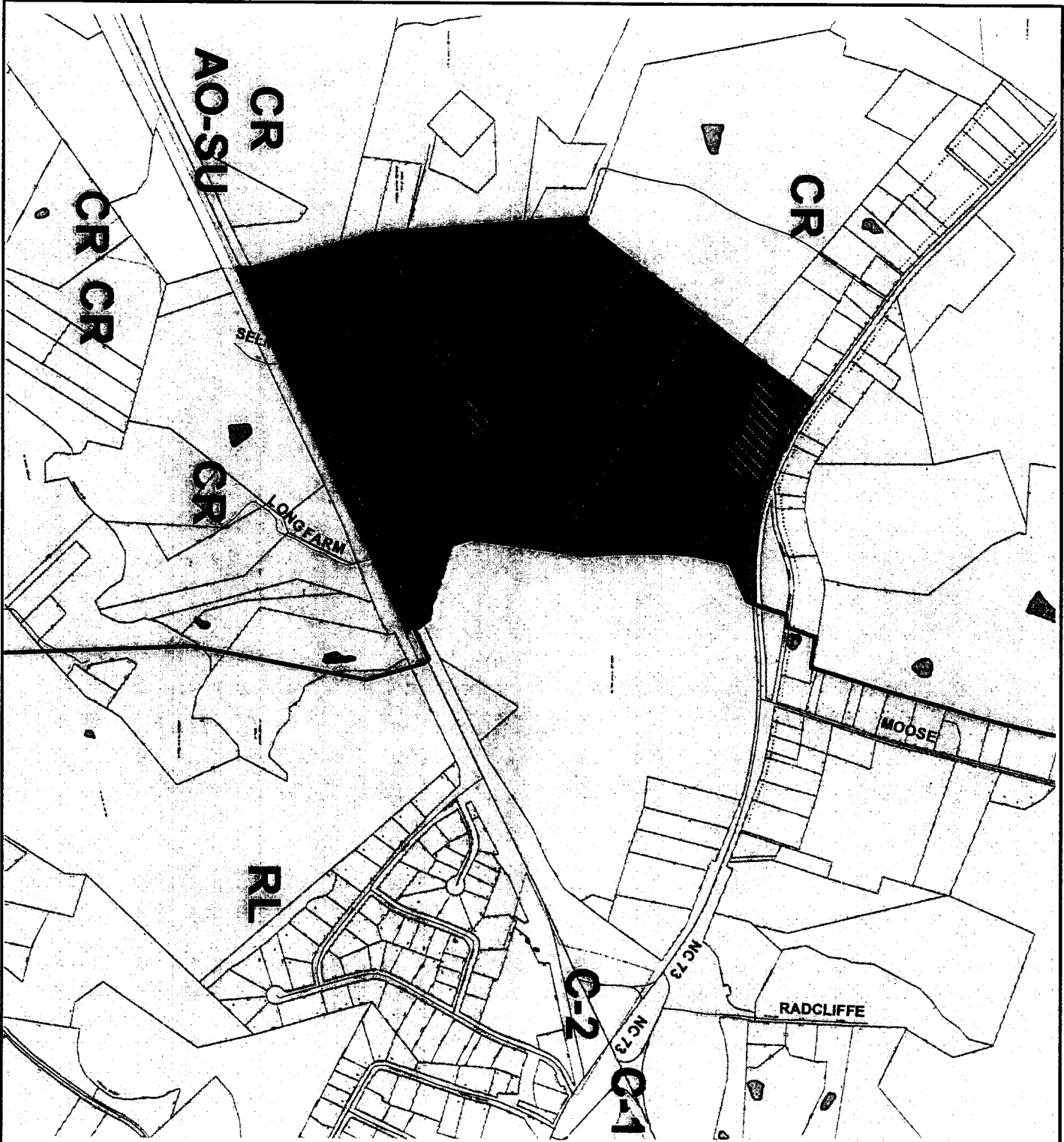


**Legend**

- Future Urban Service Boundary
- Future Land Use**
- Commercial
- Neighborhood Commercial
- Future Employment
- Historic Residential
- Mixed Residential
- Suburban Residential
- Town Center
- Industrial
- Office/Service
- Institutional
- Village Mixed Use
- Agriculture/Open Space



**APPENDIX A MAP #2  
EASTERN AREA PLAN  
FUTURE LAND USE  
MT. PLEASANT**



Petition C2006-08 (R)  
 Jacob Archie Smith, Jr., et al.




O/I to CR

PINs 5660-35-3579

- 5660-26-4307
- 5660-25-4510
- 5660-25-8595
- 5660-36-2766
- 5660-24-5308



**Legend**

-  Subject Property
-  Street Centerline
-  ETJ Boundary

6590 Hwy. 73 East  
Mount Pleasant, NC 28124  
Oct.12, 2006

To the Cabarrus County Zoning Board and those Officials concerned with Zoning

Dear Sirs,

We recently discovered, by accident, that our land had been rezoned. This was done without our knowledge and without any notification to us that it had been rezoned. Our land was zoned CR and it was changed to OI. We are now requesting that our land be restored to Country Residential zoning. This land is, and has always been, agricultural land. In order to understand why we are so concerned about this rezoning you need to be aware of the history of this land. It is NOT just a piece of property!

This land was once the home place of Adolph Nussmann who came from Germany and established the Lutheran Church in North Carolina and who also was the first pastor of St. John's Lutheran Church established in 1745. The land was purchased by our great-grandfather, Harvey Caswell McAllister, when he returned to Cabarrus County from fighting in the Civil War. (We still have the sword that he carried with him in that conflict.) He reared his family on this farm and upon his death it was passed down to his sons, George F., and John B. McAllister. (John B. McAllister was the Register of Deeds in Cabarrus County 1910-1912.) In the 1950s the farm was split when Hwy. 49 was built through it and the land south of Hwy. 49 was sold except for one small lot.

As time went on several lots were sold and, recently, the descendents of John B. McAllister (none of whom still live in Cabarrus County) sold the remainder of their land to the C.M. Black Co. to be developed. The portion of the farm owned by George Franklin McAllister, our grandfather, was acquired by our parents, Jacob Archie and Virginia McAllister Smith. Virginia was the eldest child of George F. and Ethelyn C. McAllister. We, the children of Archie and Virginia, grew up on this farm. In 1989 our parents deeded the farm to their four children. While the four of us legally own different parts of the farm, we have never thought of it as "your land" or "my land". It is "the farm" and we treat it as a unit. Despite the efforts of a number of people, we have not sold, nor do we intend to sell this land. We consider ourselves as stewards of the farm as part of our heritage to be passed on to our children.

This recent rezoning of this land has made it impossible for our children to be the fifth generation to build and live on the ancestral land purchased by their great-great grandfather. This rare and precious opportunity is now being denied to our children.

The persons who made the decision to rezone "the farm" certainly did not understand its history or the deep ties between the land and the remaining descendents of Harvey Caswell McAllister who presently own the land. In this mobile world that we live in today, it is becoming increasingly rare to have generations of families who have lived on the same land. For the sake of our children, we urge you to restore the "the farm" to its Country Residential zoning status.

Respectfully yours,

*Ethelyn S. Hegele*  
*Jacob Archie Smith Jr.*  
*Virginia S. Little*  
*Martha Caswell Smith Arnold*

Ethelyn Crabtree Smith Hegele

Jacob Archie Smith Jr.

Virginia McAllister Smith Little

Martha Caswell Smith Arnold

Thursday, November 2nd, 2006

Attention: Chris Moore  
Cabarrus County Planning & Zoning

Re: Rezoning of the following Landowners/Parcels  
Virginia M. Smith Little Pin # 5660362766  
Ethelyn C. Smith Hegele Pin #'s 5660353579 & 5660264307  
Jacob Archie Smith Jr. Pin #'s 5660254510 & 5660258595  
M. Caswell Smith Arnold Pin # 5660245308  
Jeffrey C. Ritchie Pin # 5660369905  
Robert J. Foley & Judith M. Dudley Pin # 5660231992

As per our brief phone conversation yesterday, I wanted to submit a letter on behalf of my neighbors and our intentions to attend the next P&Z meeting. This should be slated for Thursday, November 16th & I will confirm time with your department.

This letter is regarding our recent awareness of the rezoning from agriculture to IO of our adjoining neighbor's farmland. The property rezoned consists of twelve parcels as best I can determine and was a complete surprise to property owners and adjoining landowners alike. The Smith family who owns majority of the property in question has owned this farm since the Civil War. Their intentions have always been to maintain farmland for their quiet enjoyment, never yielding to individuals who wanted to purchase from time to time. And a very real concern for Barry & Virginia Little is the impact that the current zoning has on their personal plans of offering a parcel for their children to build upon.

This new zoning decision seems premature based on the slow growth of Eastern Cabarrus County. More importantly we would like a voice in how this occurred unbeknownst to anyone impacted. It is my understanding that Pin #'s and rezoning notification was placed in the local newspaper, but everyone does not read the local paper. If my property zoning were changed without my knowledge and discovered a year later as seems to be this case, I would be extremely concerned and disappointed with Cabarrus County government. Can you offer an explanation other than sheer volume of business as to how this could happen without an owner's knowledge or input? We look forward to joining you and board members at the November meeting for a better understanding of the facts and knowledge of the Unified Development Ordinance.

Sincerely,  
Debbie and John Fink



# Mt. Pleasant, North Carolina

Founded in 1848

Troy W. Barnhardt  
*Mayor*

P.O. BOX 787  
MOUNT PLEASANT, NORTH CAROLINA 28124  
704-436-9803

Date: November 14, 2006

Subject: Re-zoning property on NC Hwy 73 (Smith Property)

To Whom It May Concern:

This property is in the Town of Mount Pleasant service area, although it is not in our ETJ. Mount Pleasant has identified NC Highway 73 and NC Highway 49 as our future business corridors. This is discussed in the Mount Pleasant UDO Article 15 Overlay Districts.

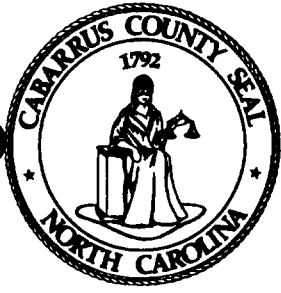
We do not object to the rezoning, we simply wanted to express our future looking plans for these two main Highways running through our Town.

Should you have any question please call Town Hall at 7604-436-9803

Sincerely

Troy W. Barnhardt  
Mayor  
Town of Mount Pleasant





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

Mr. Roger Haas, Vice-Chairman, called the meeting to order at 7:00 p.m. Members present, in addition to the Vice-Chair, were Mr. Todd Berg, Ms. Brenda Cook, Mr. Larry Ensley, Mr. Danny Fesperman, Mr. Larry Griffin, Mr. Ted Kluttz, Mr. Leonard Lancaster, Mr. Thomas Porter, Jr., Mr. Ian Prince and Mr. Barry Shoemaker. Attending from the Planning and Zoning Division were Ms. Susie Zakraisek, Planning and Zoning Manager, Mr. Chris Moore, Planner, Ms. Collen Nelson, Planner, Mr. Jay Lowe, Zoning Officer, Mr. Mike Byrd, Planner, Ms. Arlena Roberts, Clerk to the Board, and Mr. Richard Koch, County Attorney.

**Roll Call**

**Approval of Minutes**

Mr. Fesperman, **MOTIONED, SECONDED** by Mr. Prince, to **APPROVE** the October 19, 2006, minutes. The vote was unanimous.

The Chair swore in the new alternate Planning and Zoning Board member Mr. Larry F. Ensley.

**Old Business – Board of Adjustment Function:**

**Preliminary Subdivision Plat Approval – Petition C2006-04(S) Cascades at Skybrook**

The Chair said this was an issue tabled from the October 2006 meeting.

Ms. Colleen Nelson, Sr. Planner, addressed the board stating this is Petition C2006-04(S), Preliminary Plat approval for Cascades at Skybrook. She said this is an attached single family townhome project and the applicant is Westfield Homes. The property location is Harris Road and Skybrook Drive. The property is approximately 7.13 acres and is currently vacant; the current zoning is LDR (Low Density Residential). She said however the proposed site was previously approved by the Skybrook Master Plan in 1999, and at that time, it was MDR (Medium Density Residential). She said it was determined in September that this property has vested rights, so the developer is allowed to continue based on the MDR (Medium Density Residential) standards in the 1999 Master Plan.

Ms. Nelson said the property to the south is OI (Office Institutional) with residential and vacant uses. The west of the property is the Mecklenburg County Aquatic Center; to the North is the Skybrook Amenity Center and the properties to the east are residential and

mainly in the Skybrook Subdivision. The proposed subdivision will be served by CMUD (Charlotte-Mecklenburg Utility Department) water and sewer systems.

Ms. Nelson said as for code considerations, the MDR district is a medium density residential zoning district; the minimum lot size is 10,000 sq. feet under traditional development. Under customized standards, the maximum density is 4.5 units per acre. She said there are 76 units in this proposed subdivision, and it is calculated that it is 10.9 units per acre at this time. She said a minimum of 30% open space is required for this development, however, the required open space has been provided throughout the Skybrook Subdivision, the same goes for the flexible setbacks and the 30 ft. front setbacks on 50% of the lots is also divided out throughout the entire subdivision of Skybrook.

She said as for the public utilities, the schools are inadequate; therefore there is a \$500 per lot fee designated through the consent agreement for Skybrook when it went through in 1999. She said it was approved by NCDOT and the Fire Marshall's office. She said Soil and Erosion Control require a soil and erosion plan before any land clearing takes place. She said the subject parcel was rezoned from MDR (Medium Density Residential) to LDR (Low Density Residential) per the countywide rezoning and as she said before, it goes under MDR (Medium Density Residential) because it was vested per the 1999 Skybrook Master Plan. She said as far as the Land Use Plan, the draft version of the updated Cabarrus County Northwestern Area Plan recommends that the subject property be developed as residential, with a density of 1-3 units per acre. She said the proposed subdivision meets the overall residential component of the draft Northwestern Area Plan; however, it exceeds the intensity of residential development in that plan. She said according to the Northwestern Small Area Plan of 1990, which the subject property was originally approved under, the subject property was originally zoned MDR (Medium Density Residential) and allowed townhomes, where as under the updated version, there are no townhomes allowed in LDR (Low Density Residential).

Ms. Nelson said recommendations upon Board approval are that the developers shall pay \$500.00 per lot as designated in the consent agreement for the Skybrook Subdivision to address school adequacy. The developer shall obtain proper driveway permits from NCDOT (NCDOT/APFO). The developer shall gain approval by the Division of Environment, Health, and Natural Resources for the connection of water and sewer (CMUD).

The Chair asked if there were any questions.

Mr. Porter asked if the \$500.00 per lot toward the schools comes back up for renegotiation or does it automatically go back to the amount in the original consent agreement

Ms. Nelson said yes.

The Chair said in the minutes from the last meeting it was stated that the applicant was asking for it to be tabled to try to work out what they needed to with NCDOT and to do some redesign. He is assuming that was done and every thing is covered.

Ms. Nelson said yes.

Mr. Shoemaker, **MOTIONED**, to approve Petition C2004-04(S) Preliminary Plat Approval with conditions listed in staff report.

Mr. Koch thinks the board should address the issue of the density, because apparently their plat is proposing 10.9 units per acres when the regulations for MDR back during that period of time were 4.5 units per acre.

The Chair asked if the petitioner was present.

Mr. John Loeborg, representative of Westfield Homes said it is his understanding that the density requirements relates to the over all Skybrook Subdivision as a whole, not just this particular sight.

Mr. Koch said under the vested rights that you agreed that this developer has in this project, it would be what the density was back in 1999 and that would apply across the board, not only the density but also to the amounts paid per lot in the consent agreement with the county. He said it has to be one way or the other, if the contingent is that they could build it under present MDR, then we would have to look into that. He said that would also change the amount that would be paid per the consent agreement because the present amount is much higher than \$500.00.

Mr. Griffin asked if the old MDR allow townhomes.

Mr. Haas said yes it did.

Mr. Griffin said it seems to him that was a different density requirement than stand alone homes.

Ms. Zakraisek said it is still the same density, but the applicant was allowed a two unit density bonus if they could prove that it was a mixed use type project. She said if the board wanted to make that interpretation that would get you closer, again you are back to the consent agreement and that is what you based your vesting on. She said they were approved for a certain number of units in that consent agreement and she does not believe they are exceeding that number of units, but if you break it down and look at it for this particular parcel then they would. She said the consent agreement that the Board based its vesting on was for the overall project. She said it was based on the number of units not based on the density. She does not know if that is an interpretation you can make as part of the approval or not.

Mr. Berg asked if they have exceeded the 254 units in the whole development or the 4.5 units per acre.

Ms. Zakraisek does not believe so in the over all development.

Mr. Griffin asked if she is referring to townhomes.

Ms. Zakraisek said in the overall development, it would include single family, multi family, everything in Skybrook. She said this one was not platted out, that is why they are back before for the Board now. She said the Board made the interpretation that the applicant did have vested rights, so now they are back under the MDR, but again, that consent agreement included them as a part of a larger project.

Mr. Griffin asked if it applies at Skybrook the way that these calculations have been made in the past, was the overall acreage divided by the number of units.

Ms. Zakraisek said in the past it has been over all units and overall acreage. She said it is up to the Board, if you want this parcel since it was not originally a part of the overall master plan, they would come in at a later time but they did end up being a part of the consent agreement. She said maybe Rich can help with the legality of what you can and cannot do.

Mr. Griffin asked if there needs to be a finding on this.

Mr. Koch said it probably would not hurt. He said there would be something documented in the minutes that shows basically how to proceed. He is trying to advise the board that it needs to be consistent with what you decided in terms of vested rights. He said since the board did indeed determine that the applicant does have vested rights, then those rights were determined based on 1999, on what the ordinance was at that time, and it needs to be decided under that ordinance as of 1999. He said they cannot have it both ways.

Mr. Loeberg said the consistency agreement as he read it, addressed a total number of units and then an aggregate density. He said it did not specify parcel by parcel, the attachment on the plan called for this site to be MDR (Medium Density Residential) multi-family, so it would not be logical in his mind to have a specific density limitation on multi-family with 4.5 units per acre. He said that is very, very low for multi-family.

Mr. Haas said it appears to him that the open space requirement falls under the same general rule that says there is a certain percentage that has to be open space, but when you consider the entire master plan then the open space is considered covered even though it is not set aside open space in the townhome portion of the plan. He said it sounds like it is the same thing as the dwellings in the townhome portion; by itself it exceeds the dwellings per acre but not when you put it into the entire overall master plan.

Mr. Koch said that he and Susie needed to consult.

Mr. Koch said what we need to do is to hold this open until later in the meeting; Susie will go check on the number of approved lots on other parcels in this entire project. He said you would be permitted to look at it on an overall basis, in other words take the entire Skybrook development and determine that so long as this does not decrease the overall amount to the number exceeding 4.5 units per acre, you could consider approving it on that basis. He said Susie needs to go and look into what has been approved on the other lots.

Mr. Griffin said the gross acreage divided by the number of homes is the way it has been done.

Mr. Koch said that is right, and there is also another parcel that has not come before the board yet that has to be considered as well. He suggests holding this over let Susie go look into that and revisit later in the meeting.

Mr. Shoemaker withdrew is motion.

Mr. Haas said there was no second to the motion so this will be revisited later in the meeting.

**New Business – Board of Adjustment Function:**

The Chair introduced the **Conditional Use Application 752-C**

- 1. Applicant:** Dr. Richard Beall, Carolina International School  
**Request:** Permission to enlarge the existing school facility that was previously approved (68-C).

This was a request to the Cabarrus County Planning and Zoning Commission from Mr. Richard Beall, Carolina International School for a Conditional Use. The applicant is requesting permission to enlarge the existing school facility.

The Chair swore in the following: Mr. Jay Lowe, Mr. Richard Beall, Mr. Michael Nicosia, Ms. Joell Mirco, Ms. Laura Carriker and Mr. Chuck Sigler.

Mr. Jay Lowe, Zoning Officer, addressed the board stating the application is 752-C, Conditional Use and the applicant is Dr. Richard Beall of Carolina International School of Harrisburg, NC. He said the owner of the property is ATX, LLC of Richmond, TX. The property in question is zoned (CR) Countryside Residential, and the location of that property is 8810 Hickory Ridge Road, Harrisburg, NC.

Mr. Lowe said the size of the property is 37.37 acres, and the applicant has submitted a complete application form and the information required by the Cabarrus County Zoning Ordinance for a Conditional Use Permit. The adjacent property owners have been notified by mail and the letter and the list of those contacted were included in the packets.

He has not received any opposition to the project to this point. The notice of public hearing was published on November 5, 2006, and November 9, 2006, in the Cabarrus Neighbors and November 2, 2006, and November 9, 2006, in the Independent Tribune. He said a zoning public hearing sign has been placed on the property advertising the time and place of this public hearing.

Mr. Lowe said in 2004, Carolina Charter International School applied for and received a Conditional Use Permit for a public school. The preliminary site plan indicated that the size of the facility would not be more than 60,000 sq. ft. at the time of final build out.

Mr. Lowe said the applicant is here and can correct him with these figures if needed. He will get into a little bit more of an explanation about this in just a second. He said for the sake of argument we will assume that back in 2004 we expected the school to be no more than 60,000 sq. ft. He said that is not footprint, some of those buildings could have been 2 stories; we are talking about total square feet. He said after operating out of temporary buildings on the site for 2 years, the applicant is ready to construct the permanent facility. However do to the success of the school thus far; the new permanent facility needs to be expanded. The school will be approximately 180,000 sq. ft. at final build out. He said since the new plans for the facility are much larger than what was originally approved, all parties involved agreed that the original conditional use needed to be amended. He said this is an important point, since they have a conditional use already on the property that took place about 2 years ago, if you were to turn this down tonight the applicant can construct what they had planned at that time. He said this conditional use is not going to take that away, this is basically an unusual case simply because of the expansion, and we were just not comfortable approving it in house, so the expansion is what the Board is approving tonight.

Mr. Lowe said the other unusual thing about this is, we are going to suggest to the Board tonight that if you do approve this new project, that certain conditions be looked at as part of the approval. He said typically as staff we try not to make that many recommendations or try to encourage you to place conditions on applicants, but this is a very unique situation. He said this property; prior to 2 years ago we had many inquiries in the office about this piece of property, 35 acres. He said the property, due to some flood plain and wetlands, is a very unique piece of property, it is a hard piece of property to work with, and so this school, for the past 2 years has been trying to create some way of doing so. He said if the Board were to choose to approve the expansion, 3 of the conditions that we would suggest that you place on this property were recommended by NCDOT.

Mr. Lowe said one condition would be with the expansions that are planned for the present, that the existing entrance be widen to accommodate 2 inbound lanes and that was from NCDOT. He said the second condition with the "future" expansion is that a right turn lane will be required on Hickory Ridge Road. He said the third condition is that the applicant will submit plans for future improvements to NCDOT for review and approval to assess the impact on the state maintained facilities. Mr. Lowe said these are the three conditions that Leah Wagner, NCDOT suggested to present tonight. He said the fourth

condition recommended by staff is that the overall square footage for the permanent school facility at build out should be less than 181,000 sq. ft. He said basically that gives them a little leeway, most any public school, as time goes by, they are going to need to put some type of concession stand or something like that on the property and that gives them a leeway to expand somewhat without having to come back before the board just for a 1000 sq. ft.

Mr. Lowe said that property actually has a lot of flood plain on it, and back in 2002, staff was very concerned with that and suggested at that time that the applicant give us an as-built field sheet that indicated to us by the engineer that they had not gone over the flood plain capacities. He said over the past 2 weeks, staff members have been working with the applicant and have found that since the applicant has brought in modular units and have built some soccer fields and so forth, they are out of compliance with that flood plain ordinance. He said staff is working with the applicant on that and would suggest to the Board that the applicant must find some acceptable resolution to bring the property into compliance concerning that flood plain. He said there are all kinds of ideas that they have, one being that there is another public school down the road that needs some dirt that was brought in so they are going to go in and maybe take some of that dirt or haul it out of there.

Mr. Lowe said that flood plains work like this, if you have a five gallon bucket and it is filled to the rim with water and you add a brick it will overflow. He said this property had a lot of flood plain, the more dirt you bring, in the possibilities are it is going to overflow. He said to prevent that from happening, you have to bring in more buckets or take more dirt out in this case. He said that is what we are trying to get them to do and we believe they are making a good conscience effort to do so. We have had a lot of contact with them, our staff and the gentleman who handles the flood plain ordinance has been working with them, and we think it can be resolved; however, we do want to see an as built plan at the end of construction. We think if they get in there and start the permanent facility, this situation can be remedied.

The Chair asked if there were any questions.

Mr. Fesperman asked if it looked like it was going to be okay with NCDOT getting right of way, will they have to buy that, how will that play out?

Mr. Lowe's opinion is that they will have to meet what NCDOT recommends. He said the conditions are put on the request to bring to the boards attention. NCDOT will be in charge of enforcing it. He said how they will go about doing what NCDOT says, the applicant can probably answer that better than he can.

Mr. Richard Beall, 8424 Piccadilly Lane, Harrisburg, NC, addressed the Board stating he would like to defer to the architectural team and engineers.

Ms. Joelle Mirco, Architect with Perkins and Will, and Project Manager for the Carolina International School Project, addressed the Board. She said one item that she would like

to clarify is with regard to the NCDOT recommendations; we were able to get a clarification on the recommendation from NCDOT. She said the right turn lane is not a condition for the current phase construction they are planning for this coming year; it is actually contingent for a future phase. She said Leah Wagner with NCDOT made that ruling. Ms. Mirco said Leah Wagner's finding about the widening of the entry lane to the school, Leah actually made a clarification on that. She did not realize that the widening had already been made to the lane since the original construction of the school. Ms. Mirco said the school is already in compliance with that. She said as far as Leah Wagner is concerned, she believes that the school is already compliant and will be able to provide the turn lane at a future date.

Mr. Lowe said that is fine with us, what we could do is change the recommendations to say "must follow all NCDOT guidelines and regulations;" he would get a letter from Leah Wagner, NCDOT, confirming what she said. He said the recommendations are straight from NCDOT anyway.

Mr. Beall said he would defer any detailed questions to Joell Mirco with Perkins and Will, and colleague Mike Brown, Engineer. Mr. Beall said the school is very grateful for the success and support they have had in the community; they currently have 417 students from kindergarten through grade 9, and are expanding as per their charter to add a grade each year to be a full K-12 school. He said they have asked permission to go from 2 classes at each grade level, about 40 to 60 students per each grade level. He said they have applied to the state board of education to do that and that would top them off at year 2017 at about 834 students max. He said that is all that would all go on this site because of their commitment to keeping it as an outdoor classroom for their students with as many trees and as many natural features as they can. He said they have been working with Perkins and Will for the past 2 years to develop a site plan that would demonstrate their commitment to their environmental studies portion of their curriculum.

Mr. Griffin said he is not clear as to what is being proposed in terms of the wetlands. He asked if they are proposing that the condition if we approve it is that they have to meet all of the requirements in order for this approval to be applicable.

Mr. Lowe said that is correct. He said as far as the wetlands are concerned, the Corp of Engineers will handle the wetlands, that is out of our control. He said Cabarrus County does have a flood plain ordinance and basically everybody in the county has to follow that flood plain ordinance. He said due to the uniqueness of that property, it does have a lot of flood plain; they are currently operating in violation of that flood plain ordinance. Mr. Lowe said we believe that they are going to correct that situation due to their availability to come in and talk to staff about that and the remedies that they have in mind about that. He said they will have to get the dirt out of there one way or another.

Mr. Lowe suggested the Board place a condition on this application that the applicant must seek some type of resolution and put a specific time limit on it. He said if it is not going to be build out until 2017, we do not want to wait that long but we could put maybe



a 12 month resolution on it or something of that nature. He said we want them, and we believe that they do, to recognize the seriousness of the situation at hand and remedy it.

Mr. Fesperman asked if they were in a fine situation since they have violated the ordinance.

Mr. Lowe said they could potentially be; we have not fined them yet. He said the guy who handles the flood plain ordinance is working with them a little more than Jay is. He said this is something we know cannot be cleared up tomorrow, with this type of acreage we want to work with them and he believes they want to work with us. He said it is going to have to be corrected one way or another. He said if it stays that way, then potentially there could be fines involved, potentially it could go to court, and there are other measures that could be in place, but we do not think it will come that though.

Mr. Shoemaker asked if he had any idea of how much they have exceeded passing into the flood plain.

Mr. Lowe said according to the maps they gave us, it looks to be about 3500 cubic yards.

The Chair swore in Mr. Mike Byrd, Planner.

Mr. Byrd went over drawings. He said the applicant submitted a map 2 days ago, their newest proposal moves everything but about 200 yards of dirt and lowers the field they have on this soccer field down and then expands the area out and redoes the slope on it so it would be in more dirt essentially used in one area and bring some of the dirt off of the worst areas. Mr. Byrd said you do not want to put them through too much to do it, to haul if off site, if they can do it on site. He said they may need the dirt for something later on or they may not, this way everything is taken care of and not involving anybody else.

Mr. Haas asked if, in Mr. Byrd's opinion, we can reach an acceptable resolution.

Mr. Byrd said yes, his thought was as part of the grading required for the start of the next phase, we could do it that way. He does not want to require somebody to bring in dozers and heavy equipment next month if they are not going to start until spring simply because of the weather and what we end up with is them making more of a mess of this, realistically speaking this time of year. He thinks it would give us a few months, next spring or the middle of next summer to get it moved and corrected. His thought is getting it corrected as shown on the map they submitted to the office on Tuesday of this week and have it stabilized and graded.

Mr. Lancaster asked if the entire site was in the 100 year flood plain, isn't the building in the flood plain?

Mr. Byrd said no, it is not. He said there is about an 8 to 10 foot drop between the level that the classrooms are on and the creek. He said there is a substantial drop on this property both before and after grading.

Mr. Fesperman asked if we were this lenient with all other cases in Cabarrus County that are in violation, that we are going to work with the person and let them solve it on their own.

Mr. Byrd said this is the first time this has really come up to this extent. He said he was out driving down the road and saw this large area of dirt that is filled in right beside the road and going down toward the creek. He started checking around and one of the representatives from the engineering firm happened to be on site trying to figure out if they were going to get involved in the project. He said we kind of met each other then, coincidentally unbeknownst to us that we would be dealing with each other for a while a few months down the road. He believes what has happened is that the contractor for the first portion did not take some fill offsite or put it in onsite storage correctly. He said the contractors did not do what they should have done with the dirt they had; they essentially pushed it around on site, instead of taking it offsite or doing something adequate with it. He said the soccer field out front is about a foot too high from where it should have been, if you get a foot of dirt on the something the size of a soccer field then you are talking about a substantial amount of dirt.

Mr. Griffin recalls when this was proposed we were assured by everybody involved, the Army Corp of Engineers, the contractors, that it satisfied the criteria, as if it had been built, but it was not built for it.

Mr. Byrd said that is correct.

Mr. Beall said the description of events are certainly accurate, we did not discover this until just recently when the as built survey came back and detected that the soccer field was not taken down an additional foot that we thought it was based upon the original site plan. He said that is why the engineers associated with Snyder Corporation are working with the department here in trying to see how we can correct the situation. He said we are a school that is in one part emphasize international education put also environmental studies and we take our responsibilities very seriously in this regard. We are very disappointed to hear that had not been done as it was originally plotted. We will do what ever it takes to get this situation corrected. We feel responsibility not only to the flood plain there but the wetlands that are on that site and Reedy Creek and so on. We would like to work with everyone involved and to make sure we have solutions to this and that it is taken care of as quickly as possible. He appreciates the concerns about erosion on there as well, if we do that work now, but if it is felt to be necessary we will do it as quickly as we get approval from DENR to go ahead with that part of the project.

Mr. Michael Nicosia, Schneider Corporation, addressed the Board. He said Mr. Byrd and Dr. Beall ultimately said exactly what transpired in the very beginning of the project. He wants to clarify particularly what they are going to do about it. He said the soccer field has recently been sodded and has irrigation on it, so the solution probably will not be to remove the turf from the soccer field. He said they are trying to focus in more on the rear of the property where the fire lane is currently located. He said there is a good majority

of material that can be removed from this area and the fire lane can be reconstructed in almost its current condition in alignment to resolve the issue. He said that is part of the resolution and the other part is to possibly remove what they can from the soccer field and the rear portion of the site.

Mr. Nicosia said they just recently discovered that the soccer field was not placed according to the previous plans, they are going to make every effort they can during this next phase of construction to make sure what ever issues within the flood plain that have happened, they will resolve. He said they are not going to be in the wetlands during this part of the project so there will not be any kind of wetland disturbance. He said they do have a crossing which they have a permit for through the current Corp permit so that will not be an issue at all.

Mr. Prince asked after the facility is constructed what the intent is on the temporary facility and temporary site.

Ms. Mirco said the proposed master plan for the site is to incrementally phase buildings to accommodate the expansion of the school as each grade level increases and the students age to the next grade level, they will need to provide facilities for those students and once they meet their demand for their graduating seniors, they will then go back with permanent construction, eliminate the modular buildings that are currently on the site. She said the space that is currently occupied by those modulares that you see as there existing campus, in the final phase of the construction will be the site for an athletic facility that the school is hoping will be used by the community as well as their student population.

Mr. Prince said that does not help your dirt situation in 24 months.

Ms. Mirco said no, not within 24 months. She said they are planning on resolving this flood plain issue immediately. She said the general contractors have already been selected for this project and they are hoping that around winter break, if they receive approval tonight, the contractors will be taking the site and will begin their grading work. She said at that time, we will begin mitigating this fill situation on the site immediately.

Mr. Berg asked if that will be resolved as part of Phase I.

Ms. Mirco said yes. She said there is no funding in place for the future construction beyond this phase, so they do not have a time frame for the construction of the future phases. She said this current phase proposed that they have permission for, according to Jay, is approximately 30,000 square feet and that will occupy the site simultaneously with the modulares that are in place, future phases will result in removal of modular buildings.

Ms. Laura Carricker, 9058 Hickory Ridge Road, Harrisburg, NC, addressed the Board stating that her property is adjacent to the school; they live on the opposite side of the creek. She is not only concerned about the flooding and the flood plain, but as they move dirt in there, it pushes water onto her property. She is also concerned about some

erosion issues because there is a great deal of erosion and sediment going into the creek right now. She said even though the applicant has agreed to address this problem, she would hope that the Board would lock them into some kind of a time frame to do this, because this situation has been going on since the school was there, as far as the erosion, and then when they filled in the dirt for the soccer field and stuff. She would like to have some kind of a time frame established, rather than just saying they promised to do it.

Mr. Chuck Sigler, 8766 Hickory Ridge Road, Harrisburg, NC, addressed the Board stating that as a result of the original conditional use, he had to give up a portion of his entire frontage to support the road widening and with this new request, obviously it sounds like this is another opportunity to expand upon that need. He is concerned that if we have to go with a right turn lane what that will initially do to his property value, when someone else's desires impact his property. He heard this evening that there may not be a need for a right turn lane initially, maybe somewhere down the road. He asked what the trigger is that would require a right turn lane. He said the frontage right now has not been finalized, as far as repair; there are still some things that have been left there that were not fixed originally that should have been fixed during the initial phase of this. He has concerns for his own personal property in that area. He said the original Conditional Use permit stated that there would be no lighted athletic fields; he is concerned whether this application would change or amend that requirement.

Mr. Beall said they made a commitment before this board 2 years ago with the concern by the residents that the athletic field lights would impair their home's comfort; so they said at that point they would not put the lights on that field and they will continue that commitment. He said the right turn lane is more matter of a NCDOT concerns. He said they had to expand the road there as Mr. Sigler said and obtain some right of way from him and have tried to work with that situation. He said NCDOT approved the changes that were made there and has been finalized and accepted. He said the remaining slope in Mr. Sigler's front yard is steeper now than it was originally because of moving that back, and so Mr. Sigler had requested that we try to bring some dirt in to change that slope. He said they have been hoping to assist as a good neighbor would with that, it has been a while and they have not been able to do that. He guess the concern now is when he mentions this to someone if that frontage actually would fall within the 100 year flood plain part of it, so he is not sure if they will be able to that, to put any dirt in to modify the slope in his front yard so that it is easier to mow, that is something they can talk with Mr. Sigler about. He said at the current time what they are thinking is that the dirt that will be taken off, mitigate this extra dirt in the flood plain will be taken probably up to the Hickory Ridge High School, which he understands needs some dirt for athletic fields and fortunately is less than 2 miles from their school.

Mr. Beall said if they can assist Mr. Sigler they would like to do that, but he thinks there are some issues to see where exactly the flood plain lies with the frontage in terms of that solution.

Ms. Mirco said she can attempt to address a time frame for the NCDOT road widening. She said since they have no funding and no plans for expansion of the next phase of the

school beyond this initial Phase 1, they cannot put a time frame on that. She said they are trying to work with Leah Wagner, NCDOT, to arrive at some kind of time frame from her stand point, and at this time Leah has only stated that during a future phase, this road widening will need to happen. Ms. Mirco said that Leah is very sensitive to Mr. Siglers property value and has spoken with him about it and it is her understanding that there will be discussions and considerations made at the time when that redlining is necessary, but there are no plans for road widening in the near future.

Mr. Fesperman said his experience with NCDOT is that the right turn lane is usually generated by the amount of traffic on a road, and usually anything 2000 or under on a day situation they are okay with, if it steps over that then they will require a right turn lane be placed in there.

Ms. Mirco, said there is planned development for Hickory Ridge Road, currently there is a traffic light that will be installed at Hickory Ridge and Rocky River Road. She understands there is a rezoning petition for a Centex home development across the street from this site which will provide additional traffic count of cars on Hickory Ridge Road. She said they have nothing to do with that, the impacts to their site has very little to do with the traffic that the school site is posing versus the traffic that other developments on Hickory Ridge Road is actually responsible for. She said fortunately the impacts with the expansion of the school; they had a traffic study done and the results of that show that capacity for stacking and park out has more than exceeded with the design that they are proposing for this project and that NCDOT is more than happy with the amount of car stacking they are providing, so the traffic count is going to be the driving determinate for that, however, during their first phase there will be no requirement for that turn lane.

Mr. Beall said the design that Perkins and Will did allowed for stacking of traffic. The indicator is more than twice of what the minimum stacking would be, their experience has been that pickup time in the afternoon, when you have the maximum stacking that the right turn is the greatest concern, so as long as they can get the traffic off Hickory Ridge Road and up on to their site then they should be okay with that.

Mr. Griffin said he was a little confused. He said you are talking about Phase 1 and its succeeding phases, what exactly are you asking for tonight in terms of approval?

Ms. Mirco said tonight they are asking the board to consider approval of an amendment to the Conditional Use permit under which the school is currently operating. She said when the school initially filed with there Charter with the state; they anticipated 2 classrooms per grade level, each class being 20 students. She said they have received approval from the state for an additional student enrollment due to the success of the school, so they have been allowed to expand their Charter to 3 classes of 20 students per grade level, which is an expansion over the square footage that the initial proposal for the site would allow. She said they are asking that the expansion be provided for square footage to be able to accommodate a school slightly rare as this.

Mr. Griffin, said in each school 180,000 square feet, but that is more than Phase 1.

Ms. Mirco, said yes, that would be full build out, it is the whole project.

Mr. Griffin said you keep talking about Phase 1 this and Phase 1 that, but you are asking for approval for the whole ball of wax.

Ms. Mirco said that is correct.

The Chair asked if there were any questions.

Mr. Prince asked when the first phase is completed, what will be the total square footage in addition to the mobile trailers.

Ms. Mirco said approximately 30,000 square feet which includes 12 classrooms, a small administration area and a small multipurpose space that is 6,000 square feet.

Mr. Prince asked how high they were going to get the other 150,000 square feet.

Ms. Mirco, said they are taking advantage of the slope down hill and the development plan is to provide buildings that are on piers, which would not be built as a slab on grade, so it can actually be perched along the hillside and will have 2 stories for each of those pavilions. She said you can see the small buildings that radiate around the circular access lane, each of those will be 2 stories and they are well below the acceptable height allowed on the site, and the current building is a one story building, for Phase 1. She said at no time will mobiles that are currently on the site be included in that total 180,000 square feet; they will be abandoned and traded off for permanent facilities

Mr. Prince, thinks where Larry is confused and he is a bit too, is because you are showing 30,000 square feet asking for 180,000.

Ms. Mirco, said correct, that was a recommendation by the zoning staff, they did not want us to have to re-petition each time we want to add a phase to the school. She said we are asking for an amendment to this 60,000 square feet originally granted by the Zoning Board to allow for future expansion, in total for the entire master plan. She said each building that is dashed in as future are all included in the 180,000 and then you subtract the mobiles that are shown on the existing campus.

Mr. Beall showed an exhibit.

Mr. Griffin asked if they were going to have any problems with the wetlands. He said the problem you have now, having to much fill dirt, is there anything in this plan that is going to result in something similar to that?

Mr. Nicosia said what they are proposing now is a full build out of the site. He said any kind of earth movement that happens will be happening now during the initial site, so when they put the additional buildings in to get the square footage, they will not be doing

any kind of "disturbance" it will be enough just to put the buildings in. He said all the filling and cutting and all flood plain issues will be resolved. He said it will be in the very first part of the project.

Mr. Nicosia wants to go back to the question of erosion control. He said they have worked diligently with the state and the county preparing multiple plans for the construction of this project, one is the site that we are going to work on but the other part is a supplemental erosion control plan that will resolve the issues that we have now with erosion control at the site as we see it today, and part of the erosion control that was approved by NCDENR that will be implemented immediately. He said the existing site will be done in conjunction with, if not before, the main site, so that will not be an issue. He said they have adapted the main, the full build out of the site to take care of any kind of erosion control during this early part of the project. He said they have added some very good stormwater quality features on site that you normally do not see on a school site and he feels very comfortable as a design professional that the site will adequately take care of the needs of both, erosion control during construction, and post stormwater management during and throughout the whole project.

Mr. Fesperman said what bothers him about this is that this has gone on in the past. He said in cleaning it up now, you are now realizing the problems have existed, like the one the homeowner was talking about, and violations on the flood plain issues, that yeah that is going to be resolved and that that has happened. He said you are coming in now saying all this is going to be resolved. He asked if this would have been resolved if you were not in front of us. He hopes that they are going to be better stewards in the future than what they have been.

Ms. Mirco said none of the design professionals were involved with the original design, location, or the development of the site. She said The Carolina International School felt that they needed leadership with an architect that would be able to guide them through the entire master plan development of the site. She feels very confident with their design team, that they will be able to now lead and be the point of contact for the county and all agencies, where as before the school was functioning as their own representation and did not have the benefit of design professionals being able to help direct them in any sort of improvements that volunteers may have wanted to make on the site. She said when Perkins and Will approached this project and began working with the school; they identified very early on violations that had occurred on the site in conjunction with the county of course, working with Scott McAnulty and Robbie Fox. She feels very confident now, that under their leadership and for the duration of the schools project and being our client now, that they will not have anymore issues like this.

Mr. Shoemaker asked if it is safe to say that you will provide some type of accountability for execution throughout the earth moving process to ensure that they meet the grades and the flood plain requirements as well as the amount of cubic yards of dirt that needs to be removed now and repositioned.

Ms. Mirco said absolutely.

Mr. Nicosia said there are approved erosion control features out there now, and they will have to be out there continually either on a bimonthly basis or a weekly basis to monitor the site for erosion control and to file the reports. He said these reports need to be kept on site and the erosion control municipalities and DENR will be out periodically checking the site and making sure that they are preparing the reports and monitoring the site on a continually basis, based on the new storm water push and prevention plan regulation, which were just adopted October 1, 2006. He said there are other regulations out there that will make sure that erosion control is happening.

Mr. Fesperman said this county is very lenient, if you were building in any other county, the day you find that you are in violation of a flood plain issue your fine starts that day and it increases quickly until that site is cleaned. He wishes we had some conciliatory in Mecklenburg County that they be that nice to us, as Cabarrus County is.

Ms. Mirco said it was only brought to their attention when they came to the site.

Mr. Fesperman understands and is glad they are involved in this now because some things have been wrong.

Mr. Berg said he cannot speak to the county being lenient but he knows NCDENR is not, and once permits are pulled they will be on site doing inspections, and if there are any violations they will issue citations pretty quickly.

Mr. Shoemaker asked if the general contractor is aware of the severity of this situation.

Ms. Mirco said yes, they have been instrumental in meeting with the county staff to help be involved with this process, they are 100% on board and at a moments notice can be beginning work.

Mr. Prince said this is a condition use so we can put conditions on there, and could we not then tie the compliance to the existing flood plain into the building permit? He said you have to get the site into compliance before you get a building permit.

Mr. Berg said if it is going to be part of Phase 1, then it would not happen before the permit is issued, it would happen immediately after.

Mr. Prince said you have the site permit to do the grading.

Ms. Mirco said due to the complexity of this site there is no way to be able to construct the building without having the site grading work done anyway, so the Board has her assurance that will be the first and foremost.

Mr. Prince said you could tie it there and then that would give the public an understanding that they are not going to be able to start the bricks and mortar until this thing is fixed.



Ms. Mirco said the school needs to open August 1, part of their proposal is that they are able to submit to the building department, early site and structural drawings so they can start foundations and that goes along with the grading effort on the site. She said they will not be obtaining a permit for construction of any of the buildings that is beyond the footings and foundations and retaining walls for the project.

Mr. Prince said as a further incentive we could put the condition on there that unless the site is in compliance with the flood plain, you cannot receive an occupancy permit.

Ms. Mirco said that is more than fair.

Mr. Prince said either of those will trigger it.

Ms. Carricker said it sounds to her that the future plans are all going to be in compliance. She believes that Mr. Prince may have addressed her concern but she would like the applicant to get their existing facilities in compliance now and not wait until they start the new phase. She said there is a problem out there now with erosion and sediment going into the creek, and it has been going on for a while. She said they have been out of compliance with the flood plain. She said even though this new design firm has promised to bring them forward into compliance she would like them to fix the problem that exists today and she would like to have some reasonable time frame set with that. She understands the time frame involved with getting all the permitting so they get the school under construction, and so they can open for the new school year, but they have a mess out there now they need to clean up before they move ahead.

Mr. Shoemaker asked Ms. Carricker what a reasonable time would be so that the board would have kind of idea where she is.

Ms. Carricker said maybe within the next 6 to 9 months perhaps. She has lived there for almost 35 years and all of that creek bottom stays soggy about 8 to 10 months of the year. She said it is only in the hottest part of summer that it is dry enough; there are portions down there that they cannot mow in the wet weather because the tractor gets stuck. She knows they are restricted by that but the school has been in process of growing and being built over the last 2 years and they just put the soccer field in recently and brought the dirt in there and made the field a little to long, which pushed the water over. She said every time they move dirt, it pushes water on to her property and makes her creek bottom soggy. She would like for them to fix the erosion right by the embankment by the road. It is all eroded and all of that sediment comes down into the creek and even though there is still some silk fences in place from the initial construction, she does not think they are doing an adequate job, there is still a lot of sediment going into the waterway.

Mr. Shoemaker said based on the applicant having to have occupancy by August, that is about 8 to 9 months out, did Ms. Carricker think if the applicants time frame and her time frame are kind of there? He said they have to have an occupancy permit by August, which gives them enough time to get all of there stuff, according to what Mr. Prince just

brought up with what he is thinking, adding the conditions, he asked Ms. Carricker if she thought that would match her needs?

Ms. Carricker, after conferring with her husband who is an engineer and her son who has a degree in horticulture and does landscaping, Ms. Carricker agreed.

Mr. Berg said the erosion control measures would have to go in place as soon as you start.

Ms. Mirco said yes, they actually voluntarily submitted the stabilization for the problems. She said as a matter of fact NCDENR was unaware of any issues of erosion on the site, and they voluntarily submitted their measures to stabilize that area without any prompting from DENR. They permitted both the future construction for Phase I along with the stabilization of the existing problems that they identified on the site. She said both of those hopefully will commence in the next month.

Mr. Berg asked if they have approval from DENR.

Ms. Mirco said yes they do.

The Chair asked if there were any additional questions.

The Chair said bear with him as he states the conditions discussed to see if it was close to what has been discussed over the last 30 minutes.

1. Meet and follow all NCDOT recommendations as opposed to what we had listed, which was whether the entrance is in compliance now or whether it will be in the future, and the right turn lane, that all of those be submitted to NCDOT for review and approval.
2. The overall square footage of the facility is less than 181,000 square feet.
3. An acceptable resolution for the floodplain issue, whether it is for an occupancy permit or having a date of August 1<sup>st</sup> or 6 to 9 months.

The Chair said another he made a note of and he is not sure if it needs to be a part of this was the statement that was made about the concern of the lighted fields and we could even include a condition that would say no lighted fields as was stated in the original application, be maintained as well.

The Chair said those are the conditions he has listed from the notes he made along the way. He asked if anyone had any additions, corrections or questions.

Mr. Prince asked if the athletic field lighting restrictions included in the first conditional use as a condition.

The Chair said yes.

Mr. Lowe said if the Board chooses to grant this conditional use, he will get with Rich and they will write the granting orders up to include these conditions.

The Chair asked if there were any additional questions.

There being no further discussion, Mr. Prince, **MOTIONED, SECONDED** by Mr. Berg, to **APPROVE** Conditional Use Application 752-C with the following conditions:

1. The client meets all NCDOT regulations
2. The overall square footage not exceeds 181,000
3. The site is in compliance with the current flood plain ordinance by August 1, 2007.

The vote was Unanimous.

The Chair introduced the next item on the Agenda, **Variance Applications V-117**

**2. Applicant: Keith Knight, GFK Builders, LLC**  
**Request: Relief from a typically required front building setback.**

This was a request to the Cabarrus County Planning and Zoning Commission from Keith Knight, GFK Builders, LLC, for a variance request. The applicant has requested relief from a typically required front building setback.

The Chair swore in Mr. Keith Knight, and Mr. Jay Lowe

Mr. Lowe addressed the Board stating this is application V-117, and the applicant is Mr. Keith Knight, GFK Builders of Salisbury, NC, he is also the owner of the property in question. Mr. Lowe said that particular piece of property is zoned AO Agricultural Open, the location of that property is 10012 Odell Place Road, Lot #8 of Odell Place Subdivision. He said the applicant has submitted a complete application form and the additional information as required by the Cabarrus County Zoning Ordinance for a variance application. The adjacent property owners have been notified by mail, the letter and a list of those contacted were included in your packets. He said we have not received any opposition to this case at this particular time. The notice of public hearing was published on November 2<sup>nd</sup> and November 9<sup>th</sup> of 2006, in the Independent Tribune and November 5<sup>th</sup> and November 9<sup>th</sup> of 2006, in the Cabarrus Neighbors. A zoning public hearing sign has been placed on the property advertising the time and place of the public hearing.

Mr. Lowe said to make a long story short; there was another builder that was building several houses in that subdivision and for some odd reason some of the houses got completely finished and some did not. He said some of those lots were just the foundations in place. He does not know whether the builder went out of business or what

his situation was but he went away. He said the permits expired, the new owner, Mr. Keith Knight came into the office and had to pull new permits for all of those unfinished lots. He said we reissued those permits but while Mr. Knight was doing so, it was discovered that the one particular lot had a foundation on it that did not meet the front set back requirements; it was out about 1 ft. 4 in. He said it needed to be 50 ft. and it was discovered it was only 48 ft. 8 in. from the property line. Mr. Lowe said staff made sure the applicant understood that needed to be corrected. He said Mr. Knight went to the adjacent property owner of Lot #3, who agreed to let Mr. Knight buy a small piece of property that would have remedied this situation. He said they were going to bend the property line which would have been sufficient to correct the violation. Mr. Lowe said the day of closing that property owner opted out of the deal and left Mr. Knight with coming to the Board to get a variance. He said the applicant is seeking relief for about 1 ft. 4 in. to bring that foundation into compliance.

The Chair asked if there were any questions.

Mr. Fesperman asked how many homes were in the subdivision.

Mr. Lowe said it was a small subdivision, probably 10 overall. He is not absolutely sure about that, he said all of the lots have not been built on yet. He said the subdivision never really took off, he thinks that one builder had intended on probably building most of the homes in there but he just did not get very far with it. Mr. Lowe said he received 3 surveys, the first one that was done, the applicant realized there was a problem and thought the survey may have been incorrect, he had the second one done and that confirmed the situation and the third one the Board received showed what his corrective actions were going to be had the property owner on Lot #3 had agreed with the deal.

Mr. Keith Knight, GFK Builder, LLC, owner of Lot # 8 addressed the Board stating he had the initial survey done prior to his purchase of the property. He said that would be the first survey in the Board's packet and it showed no indication of any violations of the front setbacks. He subsequently closed on the property shortly after that, a survey was completed and he tried to get his building permits but when he went to the zoning office it was discovered that the front setbacks were indeed 50 ft. He said as soon as he discovered that he had another survey done which would have been the second survey which had the actual setback lines drawn into place. He said why they were not drawn in on the first survey he does not know, but as soon as the discovery was found, he got with Mr. Lowe in the zoning office and Jay gave him the options. He said the first option would be to file for a variance; the second option would be to pursue purchasing of the property from Mr. Wilbur Randall, owner of Lot #3. He said they had all of that worked out, but when it came time to do it Mr. Randall decided he was not going to it, subsequently, Mr. Knight filed a variance.

Mr. Knight said he purchased Lots #4-10, from the first builder who was in foreclosure, and he began the rehabilitation efforts, trying to take a situation that was neglected and burglarized and bring it around the corner and make something out of it. It was discovered that the foundation was out of compliance, it was already in the ground, the

footings and septic were in the ground and approved. He said to bring the foundation into compliance at this point would cause substantial disturbance to the footings, to the foundation and possibly to the septic system having to be re-engineered or reworked, he was trying to avoid that situation.

Mr. Lancaster said he went out and actually looked at these lots. He said these were designed for modular homes. He said you have a footing and a foundation, so moving it a 1.5 ft. would be?

Mr. Knight said next to impossible. He said they abandoned the modular project idea. He said the foundations were actually on Lot #6 and Lot #8, after closing on the property he had plans drawn for site built houses to match the foundations and are constructing site built houses on Lot #6 and Lot #8.

The Chair asked if there were any additional questions.

Mr. Lowe said when the violation was caught and Mr. Knight was given his course of action, the first statement was that he needed to find corrective action other than a variance. He said we encourage complete compliance without the use of a variance, he tried to do that and could not, and so his next course of action was to come before the Board.

There being no further discussion, Mr. Fesperman, **MOTIONED, SECONDED** by Mr. Shoemaker to **APPROVE**, Variance Application V-117 with the findings in the application. The vote was unanimous.

#### **Revisit Old Business – Planning Board Function:**

##### **Preliminary Subdivision Plat Approval – Petition C2006-04(S) Cascades at Skybrook**

Mr. Koch said when this was tabled; the issue was whether in aggregate the total number of lots that have been set out in the whole Skybrook Subdivision were divided into acreage that would yield a density of 4.5 units per acre or less. He said unfortunately from the county's records at this moment he cannot tell without absolute precision exactly how many lots are out there and exactly what the acreage is. He said there may have been something added to it or maybe a little bit subtracted from it, we just do not know for sure tonight, but it appears pretty certain that based on what they do have in the records that the density of the entire project, including this particular property with the application or the site plan as it has been submitted, would be considerable less than 4.5 units per acre, even including what is in this site plan. He told the applicant he would report that to the Board for your consideration, that it would appear that if the Board saw fit to approve this site plan you could do so but that the motion should probably carry a small proviso that if it turns out that once the County's records are updated that it does exceed 4.5 units per acre with what he has proposed, that he would need to come back and make some adjustment to it. He thinks that likelihood is very small and he does not

think that there will be a problem with it and presumably by the time he comes back with his other parcel, across the entrance street, at that point we should know with more certainty where we stand. He feels pretty comfortable, that so far under 4.5 units per acre in the aggregate should not present any problems.

The Chair asked if there were any questions or discussion.

The Chair said on the last page of the application are recommendations and we may want to add as number 4; may not exceed 4.5 units per acre

Mr. Berg said the other part of the original consent agreement was the total number of lots at 254; can you elaborate on what you found about that?

Mr. Koch said he did not draft that document so he can not speak about it specifically other than what he deduces from reading it. He said it appears that at the time it was drafted, those were the number of lots that were known at that time, because it talks in Section 1.1 about presently 254 lots. He said in that same paragraph later on it talks about the possibility that there could be more lots added to the project at a later date. He thinks if you read the document in its totality it seems to contemplate that there would be more than 254 lots when the project was totally built out. He said it makes accommodations for that and it does say regardless of how many lots there are, the density cannot exceed an average of 4.5 units per acre. He thinks it contemplated that.

Mr. Berg asked if what he is hearing Mr. Koch say is if this is approved there are more than 254 lots.

Mr. Koch said that is correct; there are already 295 lots exclusive of this particular project, so that number has only been exceeded by what has been approved in the past.

Mr. Lancaster said when he brought up the vested rights; he did not realize that vested rights also vested the \$500.00 per lot consent agreement. He said that concerns him a little bit; he said the subdivision has not been approved yet so he does not know if that vested rights is really fair for a new subdivision that comes on line that pays \$4500 a lot now.

Mr. Koch said the vested rights in this case he thinks is based on the consent agreement and does speak to that issue and seems to lock it in at the \$500.00 amount that was amount the commissioners had set back during the time that this consent agreement was signed. He does not think that we are at liberty to change that, unfortunately.

The Chair asked if there were any additional questions.

There being no further discussion, Mr. Berg, **MOTIONED, SECONDED** by Mr. Griffin top **APPROVE** Petition C2006-04(S) with the conditions listed in the staff report and adding a fourth condition listed below:

If the density exceeds the 4.5 lots per acre the applicant must come back and make adjustments.

The vote was unanimous.

**New Business – Planning Board Function:**

The Chair introduced the next item on the Agenda, Zoning Atlas Amendment – Petition C-2006-08 (R)

**Applicant: Mr. Jacob Archie Smith, et al**  
**Request: (OI) Office Institutional to (CR) Countryside Residential**  
**Restore a residential zoning designation to the property.**

Mr. Chris Moore, Planner addressed the Board presenting Petition C-2006-09 (R), Zoning Atlas Amendment.

Mr. Moore said the property is located in the Mt. Pleasant Township, is not within the ETJ (Extra Territorial Jurisdiction) of Mt. Pleasant although it does border on it to the East. He said the property was rezoned during the June 20, 2005, county wide mass rezoning from (LDR) Low Density Residential to (OI) Office Institutional. He said it was identified in the Leak-Goforth Economic Development Study as an area for future employment growth, specifically light industrial with manufacturing or distribution uses. The property was subsequently zoned to (OI) Office Institutional to make it available for future employment development. He said if you look at the first colorful map, which is the future land use map in the Eastern Area Plan; the Eastern Area Plan identifies the property to be future suburban residential development. He said one plan supports the residential development and one plan supports the employment development. Included in the Board's packet was a list of adjacent property owners who were all notified by mail about the rezoning. He received several calls about this amendment and no one voiced too much opposition.

Mr. Moore received a letter from Mt. Pleasant and gave each board member a copy of the letter. Mr. Moore said when there are rezoning request near other jurisdictions in the county we do solicit comments from them, so in this case the Mayor of Mt. Pleasant, is not raising any objections.

Mr. Griffin said Mr. Barnhardt wants to point out the importance of those 2 roads.

Mr. Moore said the adjacent properties are mostly zoned Countryside Residential, if you look at the current zoning maps there are a few properties that would remain in (OI) Office Institutional if the Board decides to approve this request. The area to the east is within the Town of Mt. Pleasant's Extra Territorial Jurisdiction and is zoned RL which is Residential Low Density. He said also included in the packet is a list of property owners stating the reasons for the request and a letter from an adjacent property owner who requested that it be included in the packet. He said the petitioners are here tonight to answer any questions.

Mr. Berg asked if Mr. Moore said there were properties that would remain (OI) Office Institutional.

Mr. Moore said yes, the area that is not hatched will remain as (OI) Office Institutional.

Mr. Lancaster asked what the portion in the V of 73 and 49 is zoned. He said it looks like that would have been a more reasonable parcel to make (OI) Office Institutional.

Mr. Moore said it is zoned RL and it is in the Town of Mt. Pleasants jurisdiction. He said at the time that the county rezoned the property for (OI) Office Institutional; they did not have the authority to rezone that property because it is in Mt. Pleasant's jurisdiction.

Mr. Lancaster said, so you have residential on every side and (OI) Office Institutional setting in the middle.

Mr. Moore said that is correct.

Mr. Archie Smith, 6590 Highway 73 East, addressed the Board giving the family history of the property. He said the farm is listed for agriculture use taxation with the Cabarrus County Tax Assessor; all four parts of the farm are either in or in the process of joining the Volunteer Agricultural District Department and they found out just today that the farm has been recognized by the state of North Carolina as a Century Farm and has been placed in the that program.

Mr. Smith said despite the notices that they were told were placed in the newspapers, they were not notified that their land was being rezoned and therefore had no voice in this rezoning, and even after the land was rezoned they were not informed that it had been. He and his sisters have paid over \$1000.00 in fees to this county for the privilege of standing here and appealing before the Planning and Zoning Board to reverse a zoning decision that they had no voice or any knowledge of. He ask the Board as property owners how they would feel if the situation was reversed. He said not only did they not know this rezoning was taking place, but a previous plan was violated in this process, that had it been followed they would not be in this situation.

Mr. Smith said the Eastern Cabarrus Land Use Plan, was approved by the Planning and Zoning Board, on November 1, 2002, and was adopted by the Cabarrus County Commissioners, on June 16, 2003, two years before the current zoning took place. He said in this plan it speaks specifically to this area, on page 24 of 45, "Highway 73 and Highway 49 interchange, given the plan interchange improvements and existing uses, it is recommended this area be preserved for an industrial or a business park", he said it is specific recommendations. He said number three states very clearly, "Land for both the future employment and the commercial district could only be rezoned upon the application of the landowner or their agent"; none of which occurred and this was done two years before the current zoning. He said had this been done and they had been notified they would not have had to pay all of this money to appeal this decision that we



had no voice on. He and his sisters are not unmindful of or blind to their position, or to the needs of the county regarding zoning. They know that ultimately this land will probably be developed in some fashion, hopefully long after they have passed from the scene. They want their children to be able to build and live on their ancestral land for as many generations as they wish, this is our goal. As he understands it, the County's goal is to control growth and development of land through zoning, for the common good of all. He said these two goals are not mutually exclusive, we have the potential here of a win win situation for both their family and the county. He said on September 21, 2006, this board was meeting with a similar situation; a change from OI to CR zoning. He said in the minutes of that meeting on page 17, the director of planning insightfully and correctly acknowledges that while CR allows for the building of single family residences, and OI does not, both of these zoning categories are essentially a form of land banking or holding zones. He said this being the case, if the land is zoned CR and if their children in the future wish to sell the land or decide to sell part of the land, the county will still control how the land could be developed. Therefore, with both the families' interest and the County's interest begin protected by this action, he asks the board to grant their request and restore this land to Country Residential.

Mr. Porter said Mr. Smith referred to this land as already being signed up in the Voluntary Ag District. He asked if it is in the original or the enhanced version.

Mr. Smith said the original.

Mr. Porter asked if all of it was in the original.

Mr. Smith said all of it is in the original.

Mr. Porter said he is also on the Board of the Voluntary Ag District, and that was just recently adopted within the past year by the Board of Commissioners, which is to protect agricultural land in the county. He said the next phase of that will be for farmland preservation, but landowners that wish to sign up, they clearly state that they wish presently for their land to remain in agricultural production. He just wanted to clarify that for the Board, if you are not familiar with the Voluntary Ag District.

Mr. Smith said they treat the farm as a unit; the whole farm has been rented.

Ms. Ethelyn Smith Hegele, 1205 Wicklow Drive, Cary, NC addressed the Board. She is the older of the Smith siblings and owner of a portion of the farm in question and a resident of Wake County. She would like to make two points, first, she was not notified of the proposed change in zoning, or of the successful effort of the Planning and Zoning Office to rezone her farm, and she should have been. Her youngest sister, who is also a resident of Wake County, received no notification either. She feels betrayed by her home county for the unfair way and illegal way of which the land was rezoned. Her son has plans to build on her part of the property, and will not be allowed to if it remains as it is zoned now.

Ms. Smith said she lives in Wake County and does not read the Concord Tribune, but according to the statutes of North Carolina, GS135A-343, Section of Methods of Procedure for Zoning, it states "property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the effective property, shall be notified according to the provisions of Sub-Section A of this section". She said Sub-Section A requires that they be notified by first class mail, to the last address listed of such owners on the county tax notices, at least 10 days but not more than 25 days prior to the date of the public hearing. She has a copy of that portion of that and a copy of her tax statement addressed to her home in Cary, NC. She received no notification of the proposed zoning changes and according to this she should have. Her second point is the wisdom of maintaining a family farm: for aesthetic reasons, environmental reasons, historic and economic reasons and to preserve the quality of life for all in the area. She said it is hard to put a dollar value on tranquil, open farm land as a stress reducer for residents of the area or forest land for the oxygen it produces to promote a healthy community. She has both on her land, a farm pond, and a wildlife protection plan.

Ms. Smith said, ten days ago she attended a farmland preservation workshop sponsored by the North Carolina Department of Agriculture, in some material prepared jointly by NC State and the North Carolina Cooperative Extension Service; she found some interesting figures of estimated income in Cabarrus County for 2005: hay \$510,800, horses, ponies, mules \$2,830,000, cattle \$9,436,385, and forestry \$4,500,000. She said they have all of these on their farm except for the mules. She quoted from one of the publications she received there: "American Farm Land Trust, ranks farmland in 54 of North Carolina's, 100 counties among the most endangered in the United States". "Farming on the edge, sprawling development threatens America's best farm land". She said on the legend for North Carolina it has a red section for the high quality farmland that is most in danger of high development and Cabarrus County is solid red.

Ms. Smith said last year our state lost 100,000 acres of farmland to development, and lost our number four ranking nationally on this list, because, at present North Carolina has the dubious distinction of leading the nation in lost of farm land. She begs the Board not to make their five generation farm a part of this tragic statistic.

Mr. Lancaster said that this board did not have anything to do with the rezoning of their property; it was the Board of Commissioners, he said this board did not do the county wide rezoning.

Ms. Smith said they have been very puzzled because they realized that they are on the border of the ETJ for Mt. Pleasant that is to the east of their farm but all of the surrounding area is different. She said only the original farm that their father had which includes their four properties, and a few lots that had been sold on the edge of the farm, only that property was changed to OI.

Ms. Virginia S. Little, 6600 Highway 73 East, Mt. Pleasant, NC, addressed the Board. She lives in the home that she and her brother and sisters grew up in; it is the home that

her parents were moving into the day she was born. She said that home stands on the site of her great grandfather's home, the home in which her grandfather was born. She said there are not many of us who can claim those kinds of family ties to property, to family land, and they are very proud of that fact. They hold it sacred and consider it a part of their heritage, they consider it to define them as a family, as a group and considers the family land a part of her as the DNA which physically makes her who she is. The thoughts that someone who neither knows, nor cares about this land's history would determine its future, is unthinkable to them.

Ms. Little said, they have been told that our county government hired and allowed an out of county company's study to decide that their land should be set aside for offices, or institutions, car washes, parking decks, and funeral homes. She said you can have anything you want, but you cannot build a home there. They did this without asking or even informing those of us, whose parents, grandparents and great-grandparents worked, lived, built homes and paid taxes and most importantly raised their children on this land. She said the worst part of this OI zoning, is that, now by doing so you are denying our children, and our grandchildren that same God given right. We have members of our family who have laid down their lives in defense of this country and the freedoms that are being defended tonight, here by us and she wonders how they would react. When she asked a zoning staff person if it would be possible to do some kind of text amendment to the OI zoning, so that at least their children and grandchildren could build on their land, she was told, "it is not in Cabarrus County's best interest for any more private residences to be built on this land".

Ms. Little believes, what they are asking is not only reasonable but doable. She believes that their children and grandchildren have a God give right to build a residence and to build a life on this land, where their great, great, great, great, grandfather lived.

Ms. Little showed pictures of her home. She said, it is on Highway 73, it is very rural, with farms and forestry. She said it does not look like a funeral home or an institution, it is tranquil and it supports the century old farm family in practice. She asks that her nephew, her children, her nieces, and her grandchildren be allowed to continue their heritage. She said, when the government chooses not to follow its own written, stated procedures and change something like this without the property owners notice, consent, or anything, and then turn around and charge us \$1,030 to appeal to the Board to fix it, something is rotten in Denmark, "Cabarrus County, NC".

Ms. Martha Castle Smith Arnold, resident of Wake County, youngest of the four siblings, addressed the Board. She said none of them have acknowledged or have given consent for the change in zoning. She said her parents would roll over in their ashes if they knew what was happening today. She said their father, J. Archie Smith, Sr., was employed with Concord National Bank, which is now First Charter, for 30 + years and proudly served as the agricultural representative. She said in addition to being an officer of the bank, he became known as the go to guy for any agricultural financial needs of the Cabarrus farming community. He was instrumental in starting the Cabarrus County Farmers Market. He loved farming and the land, our land, so much that after each full banking

day he would go home and toil on his beloved farm, frequently until 10:30 or 11:00 at night. He was 42 years old when she was born, she can remember very well until he was 65 years old and older him going out and working on the farm until 11:00 at night. To him this was never drudgery, but truly a labor of love. Her father would occasionally invite customers from the bank to fish the well stocked pond on the farm. She said it became a long standing family joke, when one customer not recognizing their father, who was an only child, in his overalls, told their mother that their fathers brother had verified his permission to fish on their property.

Ms. Arnold asked the Board to preserve their precious memories, and the future of potential memories of their children and grandchildren, and to restore the zoning of their farm to Country Residential.

Mr. Porter said he was involved from the ground level with development of the Eastern Area Plan, that plan was developed on request from the County Commissioners on what did the citizens want to happen in their areas. He said it was very clear, especially in the eastern area, which is the most rural part of the county, that the citizens wanted it to remain rural and agricultural. He said there are several things on this farm that stand out as far as it being a century farm, those are harder and harder to find. He said as farm land is handed down, most of the time the heirs are looking to cash in, but in this instance, they value their inheritance and wish to continue this as agricultural land. He said that part of the Eastern Area Plan was a request from what the citizens of the area wished to happen.

Mr. Lancaster said he was part of the Eastern Area Plan also, he feels that this fits CR better than it does OI.

Mr. Lancaster, **MOTIONED, SECONDED** by Mr. Berg, to **APPROVE**, Petition C2006-08 (R) Zoning Atlas Amendment.

The Chair made a couple of observations, and he understands the situation of needing the balance between residential and industrial. He said we have to have that base in the County. It appears to him that if you look at piece of property in the surrounding area, that what happened here was not the best piece of property in the area was the one that was rezoned, but the best piece that the county had control over got rezoned, unfortunately, in his opinion.

The Chair said his other concern is the continuing concern that comes up of notification; we have people who come every month now. He knows we notify by compliance with the law and all these things, but apparently that is not enough. If we have so many people who are not receiving notifications, and who are finding out by accident and these type of things, we should at least review and take a look at the way that we provide our notifications, and see if there is something beyond the newspapers that would put the notifications more in the hands of the property owners who are there. He said this seems to be a continuing problem.

Mr. Lancaster said you must remember how this was done; it probably will not be the last time we hear that. He said that was a county wide issue, it wasn't a put your sign up in your front yard, it was a whole county wide rezoning.

Mr. Porter said his concern is that it was rezoned from Agricultural to Office Institutional with after knowledge where they had no input, and now it is costing them money to put it back. In his mind that does not seem fair, is there any appeal that they could go through to where that fee could be wavered?

Ms. Susie Zakraisek, Planning Manager, said the County Commissioners are the only ones who can waive any types of fees; staff does not have the ability to do that.

Mr. Porter asked if they wanted to do that, what the process that they need to go through is.

Mr. Koch said they need to make request to the County Commission, get put on the agenda and ask them to wave the fee or remit the fee in this case since they have already paid it. He said they could write a letter to the county manager, he is the one responsible for setting the agenda for the County Commissions meeting.

There being no further discussion, the **Vote** was unanimous to **APPROVE**, Petition C2006-08 (R) Zoning Atlas Amendment.

Mr. Berg, **MOTIONED, SECONDED** by Mr. Prince that the rezoning is consistent with the Eastern Area Plan and inconsistent with the Economic Development Plan and the rezoning is reasonable and in the public interest. The vote was unanimous.

### **Directors Report**

Ms. Zakraisek said the Looper case went before the Board of Commissioners and it was approved 5 – 0.

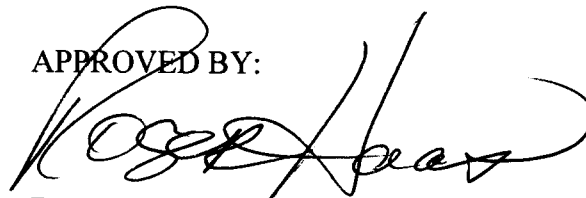
She said as a general point, there were some folks in the audience, we never asked for anyone speaking in opposition on that particular case. She said there were some folks here, she does not know if they signed cards or not, they did not defer it so they did not want to speak again.

The Chair said all the folks he called were on the cards.

Ms. Zakraisek said they must have decided that they were not going to wait to fill out the card. She said try to remember as we go along to give everyone the opportunity. She said if the Board wants too start timing at the meetings, to let her know.

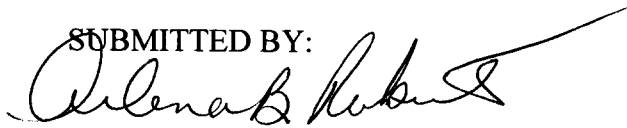
There being no further discussion, Mr. Fesperman, **MOTIONED, SECONDED** by Mr. Prince to **ADJOURN**. The vote was unanimous. The meeting ended at 9:26 p.m.

APPROVED BY:

A handwritten signature in black ink, appearing to read "Roger Haas", written in a cursive style.

Roger Haas, Chairman

SUBMITTED BY:

A handwritten signature in black ink, appearing to read "Arlena B. Roberts", written in a cursive style.

Arlena B. Roberts

ATTEST BY:

Susie Zakraisek  
Planning and Zoning Manager