

Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
August 17, 2006
7:00 P.M.
County Commissioners Chamber
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval/Correction July 2006 Minutes
3. New Business – Board of Adjustment Function:
 - A. Conditional Use Application C-715
Cabarrus County Parks & Recreation Department
P.O. Box 707
Concord, NC 28026

Request: The applicant is seeking permission to construct a public use facility
(Public Park)
4. Planning Board Function:
 - A. Preliminary Subdivision Plat Approval:
 1. Petition C2006-03(S) -Cascades at Skybrook
Westfield Homes of the Carolina, LLC
11525 Carmel Commons Blvd. Suite 301
Charlotte, NC 28226
 - B. Proposed Text Amendment to Chapter 3
4. Director's Report
5. Adjournment

FINDINGS OF FACT

Final Decision

Application: C-715

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

Applicant: Cabarrus County Parks
And Recreation Department
P.O. Box 707
Concord, N.C. 28026-0707

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

Owner: Cabarrus County
P.O. Box 707
Concord, N.C. 28026-0707

Zoning: Low Density Residential (LDR)

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

Location: 1300 Cox Mill Road
Concord, N.C. 28027

Size: 62.40 acres

PIN: 4680-32-1476

Request: The applicant is seeking permission to construct a public use facility (public park).

Advertisement Info.:

- A. Sign Requested 8-2-06
- B. Newspaper Ad Sent 8-3-06
- C. Adjacent Property Letters Mailed 8-3-06

Additional Facts:

1. The applicant has submitted a complete application form and the additional information required by the Cabarrus County Zoning Ordinance for a Conditional Use Permit.

CASE # C-715
APPLICANT: CABARRUS COUNTY PARKS
& RECREATION DEPARTMENT
DATE: AUGUST 17, 2006
EXHIBIT # /

2. The adjacent property owners have been notified by mail. The letter and a list of those contacted are included in the packets.
3. The notice of public hearing was published on August 6th and August 10th of 2006 in the Charlotte Observer's Cabarrus Neighbors, and August 7th and August 14th 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. As per section 3-8 (Table of Permitted Uses) of the Cabarrus County Zoning Ordinance, **Public Use Facilities** are allowed as a Conditional Use in the LDR (Low Density Residential) zoning district.
6. The Cabarrus County Parks & Recreation Department is seeking permission to construct a public park behind the existing Cox Mill Elementary School. If granted, the park will include walking trails, ball fields and a concession building with bathrooms.
7. The applicant has proposed gravel for the required parking area. Typically, the Cabarrus County ordinance requires that all required parking be paved with either asphalt or concrete. However, due to the amount of nearby Flood plains and wetlands on the property, run-off water may need to be controlled as much as possible.

The applicant would like for the board to consider reducing the amount of impervious surface at the site by granting a condition that would allow for gravel parking. The handicapped spaces and road access would still be constructed with asphalt.



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

Application Number

Date

<u>CONDITIONAL USE APPLICATION FORM</u>			
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 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
Steve Little, Cabarrus Co.
 Parks & Recreation
 Applicant's Address
P.O. Box 707
Concord, NC 28026-0707
 Applicants Telephone Number

Property Owner's Name
Cabarrus County
 Property Owner's Address
P.O. Box 707
Concord, NC 28026-0707
704-920-3352

Parcel Information

Existing Use of Property	<u>Elementary School</u>
Proposed Use of Property	<u>Add recreational park in rear</u>
Existing Zoning	<u>LDR</u>

CASE # C-715
APPLICANT: CABARRUS COUNTY PARKS & RECREATION DEPARTMENT
DATE: AUGUST 17, 2006
EXHIBIT # 2

Property Location	on Cox Mill Road
Property Acreage	62.40
Tax Map and Parcel Number (PIN)	4680321476

Land Use of Adjacent Properties

	(Provide Plat Map if Available)
NORTH	<u>Residential (LDR)</u>
SOUTH	<u>" (")</u>
EAST	<u>" (")</u>
WEST	<u>" (")</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."

A public park facility would be a benefit to the health of the community.

The safety and general welfare would not be damaged, because you are not adding more population - it is just a place to go relax and have fun.

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."

The facility is in a growing part of the County, and all the public support is being added to the area. The growth in this area will require a nice facility

to support the increase of population. All the support in the area except public transportation and it can be added with Cox Mill connecting to Speedway Blvd in the
 The Board must find that the use(s) as proposed "will not violate neighborhood character nor near future adversely affect surrounding land uses."

The use of the open area will enhance the space with a green space use. The addition of a park will help to clean up the area. This will make the community look better and give the children at the school a place to play.

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 use of the land as a recreation facility was a part of the original plan, but financial problems cut the ball fields out of the plan. This would be an expansion of the original plan, but the need for the facility could benefit the whole community.

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):

The zoning is setup for residential use, but we are adding a park to a conditional use property. There will not be a density or subdivision of the land.

Accessory uses (if any):

N/A

Setback provisions:

Principle Use

Front: 50 Side: 20 Rear: 30

Accessory Use

Front: 50 Side: 20 Rear: 30

Height provisions:

Principle Use 40'

Accessory Use 40'

Off street parking and loading provisions: (include calculations)

1 spaces per seat or person (max.) or 1 space per 4 seats or person (minimum)

Sign provisions: (include sketch drawing with dimensions)

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

We are trying to maintain a modified 75' buffer at 37.5 with a higher density of planting to screen the site from residential properties. In areas of no disturbance we have mentioned the full 75' width.

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

We will tie to the existing parking facility at the school and extend a two-way private drive to the facility.

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

We are providing all grades to handle storm and a higher pervious area to avoid the pervious run off into the stream. We have 95% of the new area will be grassed recreation fields to handle storm runoff and subdue any dust problem.

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

This is a recreation facility for public use of the community as well as the existing school.

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

We have the River/Stream overlay zone shown at the maximum and wetland areas are preserved.

Compliance with the Flood Damage Prevention Ordinance:

We are in compliance with the Flood Damage Prevention ordinance by providing additional flood zone in the way we graded the site.

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

We feel that there is no additional items which will effect the development of the site which will cause any problems to the health, safety, or welfare of the community.

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

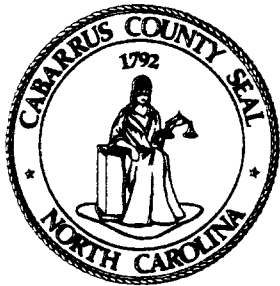
Steve Lepitta

Date

7/25/06

Signature of Owner

Date



August 3, 2006

Dear Adjacent Property Owners:

This letter is to inform you that the Cabarrus County Parks & Recreation Department has petitioned the Cabarrus County Board of Adjustment for a Conditional Use Permit. If granted, a public park would be constructed at Cox Mill Elementary School, located at 1300 Cox Mill Road, Concord, N.C. 28027 (PIN# 4680-32-1476). The park would consist of a variety of ball fields and would be located behind the existing school.

There will be a public hearing to decide this matter on August 17th, 2006 at the Cabarrus County Governmental Center, located at 65 Church Street, Concord, N.C. 28026 (2nd floor). The meeting time will be at 7:00 p.m.

The Conditional Use Application is on file in 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

CASE # C-715
APPLICANT: CABARRUS COUNTY PARKS
& RECREATION DEPARTMENT
DATE: AUGUST 17, 2006
EXHIBIT # 3

CASE C-715

Adjacent Property Owner's List

Applicant:

Cabarrus County
P.O. Box 707
Concord, NC 28026
4680-32-1476

E. G. Denny
1701 Cox Mill Road
Concord, NC 28027
4680-52-5626

Eric Vonn & Kathleen M. Hefner
1252 Cox Mill Road
Concord, NC 28027
4680-23-8327
4680-43-2327

Highland Creek Community Assoc.
c/o Hawthorne Management
P.O. Box 11906
Charlotte, NC 28220
4680-03-6119
4680-12-8398
4680-11-0340
4680-10-9928
4680-21-9530

Case # 715-C

Petitioner: Cabarrus
County Parks & Rec
Department

Zoning of subject
and surrounding
properties

CASE # C-715
APPLICANT: CABARRUS COUNTY PARKS
& RECREATION DEPARTMENT
DATE: AUGUST 17, 2006
EXHIBIT # 5



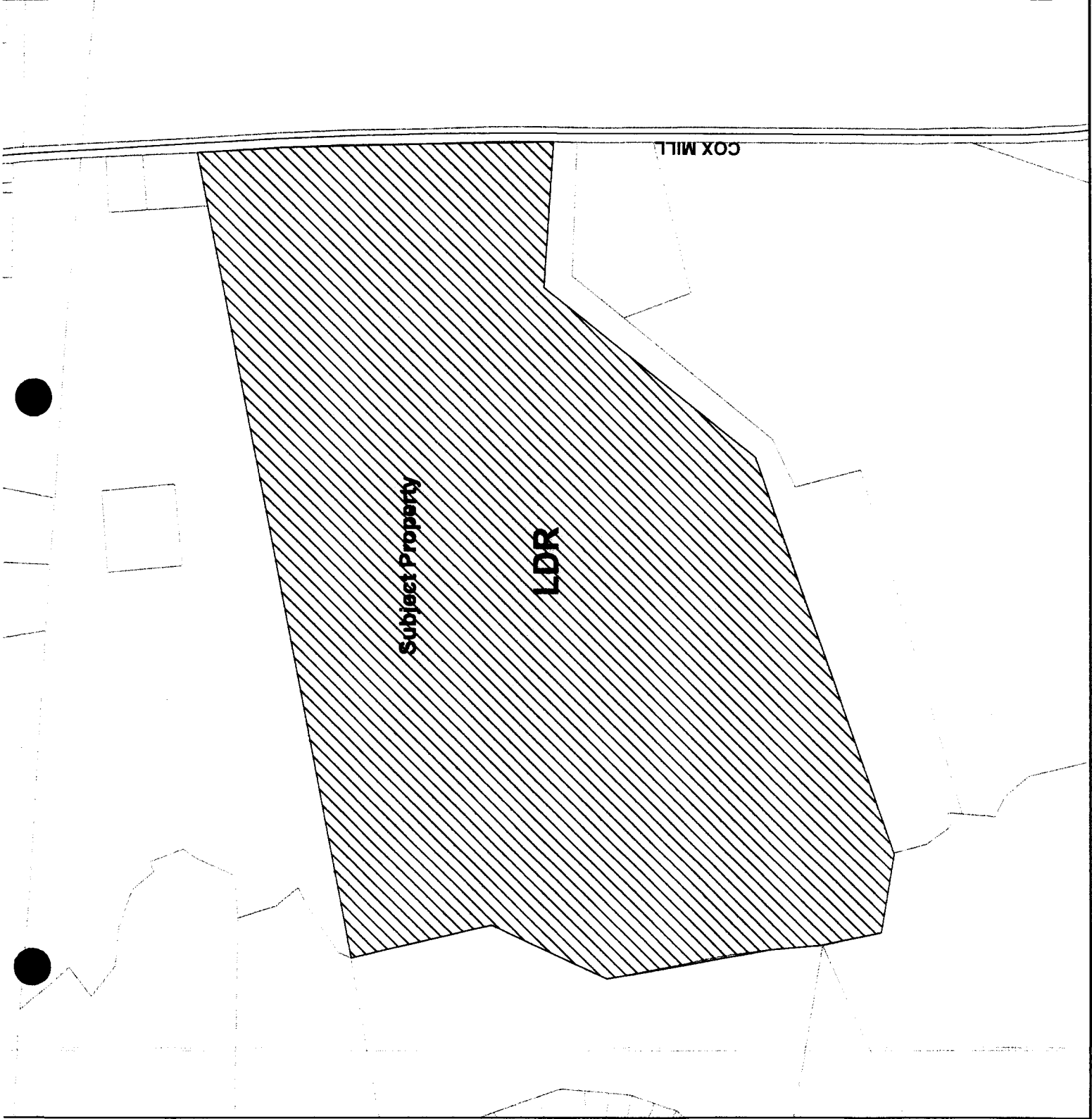
Case # 715-C

**Petitioner: Cabarrus
County Parks & Rec
Department**

**Zoning of subject
and surrounding
properties**



0 137.5 275 550 Feet



Case # 715-C

Petitioner: Cabarrus
County Parks & Rec
Department


Zoning of subject
and surrounding
properties

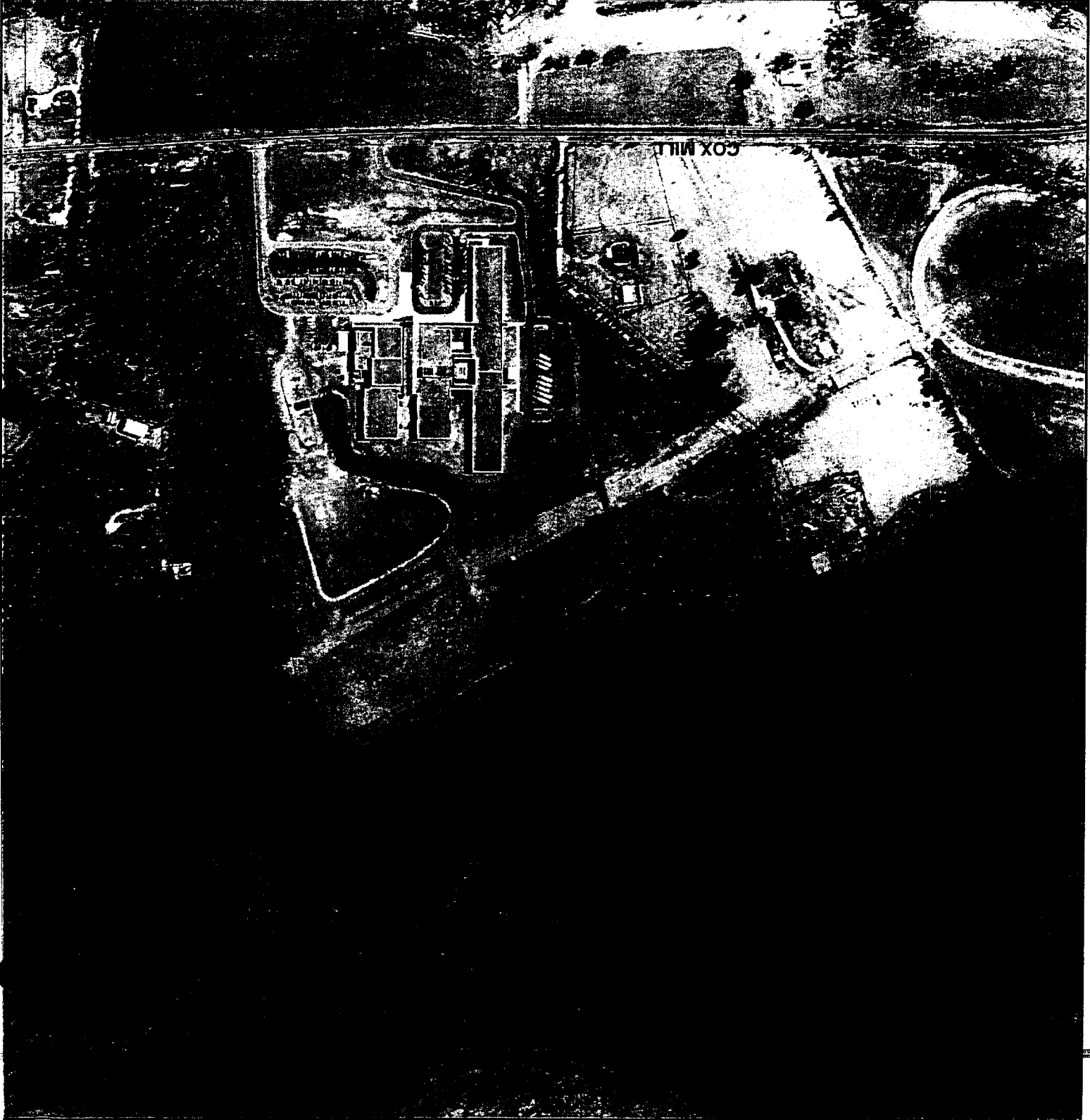


Legend

FloodPlain

ZONE

-  A
-  AE
-  X
-  X500



August 17, 2006

Cabarrus County Zoning and Planning Commissioners:

My name is Charlotte Snodgrass and I am writing you concerning the application request # C-715 for conditional use to construct a public use facility (Public Park) behind Cox Mill Elementary School. Our property adjoins the proposed park site and would be affected more than any property around the site. The site calls for six fields, the largest and nearest being less than 260 feet to the corner of our house. These being public ball fields will generate intense activity well beyond weekday activity associated with Cox Mill Elementary School. We believe the potential, and realized use, will be well beyond that what the Cabarrus Parks and Recreation Staff and their consultant/planners believe and have shared publicly.

Ken and I strongly oppose this plan. It is sad to know that our quality of life as it relates to rest and relaxation is being jeopardized. This will also impact the value of our property should we desire to sell and relocate.

We have not been contacted to discuss the construction of the ball fields nor their impact on us. At the very least we believe we deserve a more aggressive sound proofing buffer, than what is planned. The proposed trees are listed to have a 1" to 2" caliper and many are deciduous. These very young plants will not offer an immediate buffer nor offer year round protection, of which we believe we are deserving of.

Thank you for listening to our concerns. If you disagree with our opposition to this park project, we hope that you will require the Parks and Recreation Department to be good neighbors and work with us for a more tolerable outcome.

Respectfully,
Charlotte and Ken Snodgrass
1400 Cox Mill Road
Concord, NC 28027
(704) 609-9225

CASE # C-748
APPLICANT: CABARRUS COUNTY PARKS
& RECREATION DEPARTMENT
DATE: September 21, 2006
EXHIBIT #1 7



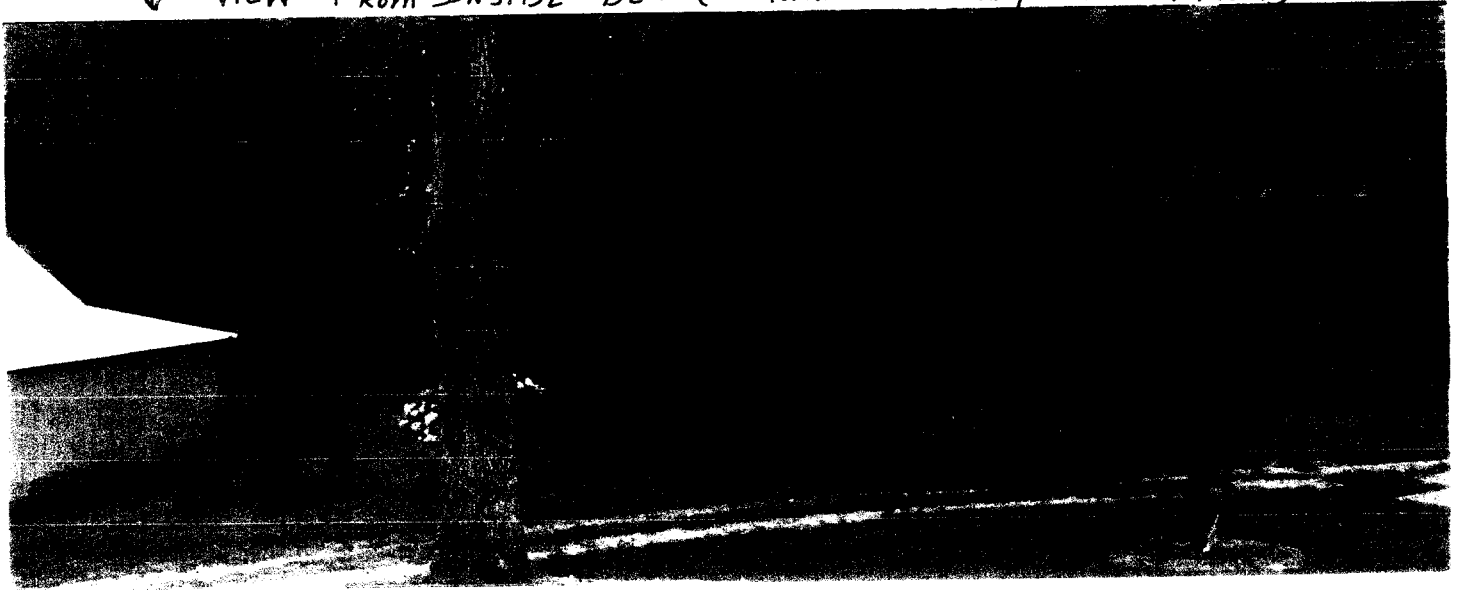
↓ STANDING ON GROUND AT CORNER OF HOUSE



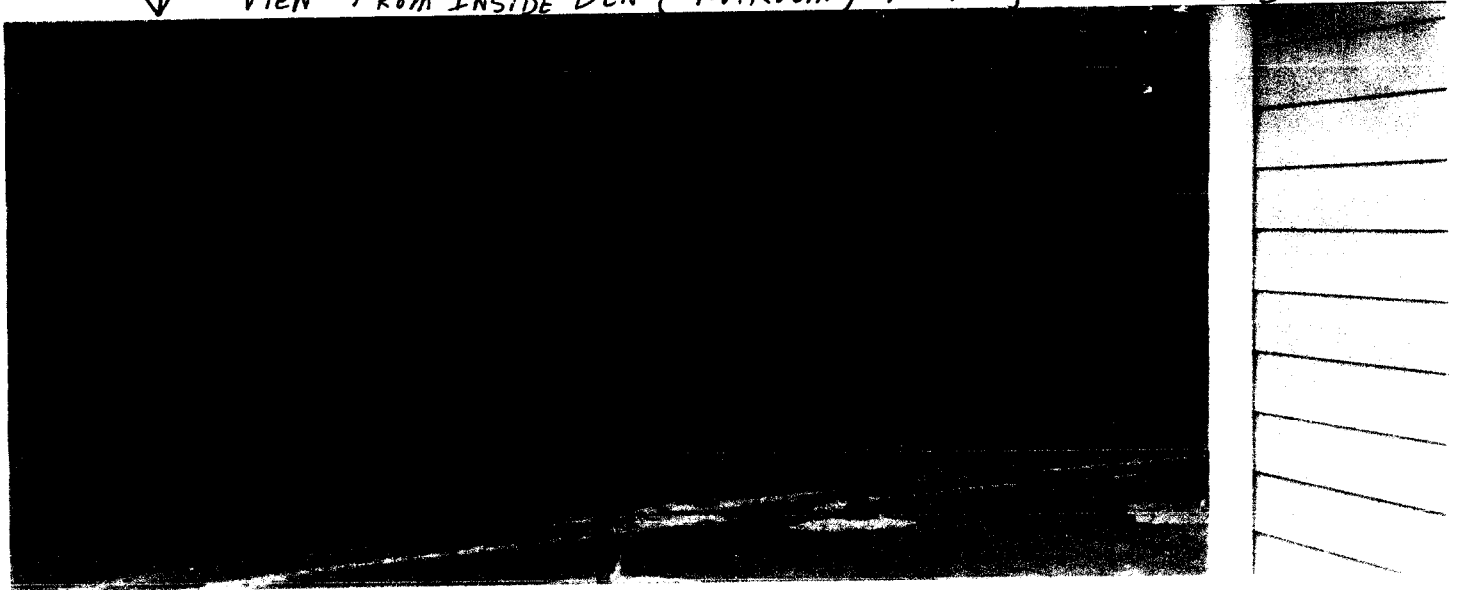
↓ STANDING AT FENCE LINE (PROPERTY) LINE



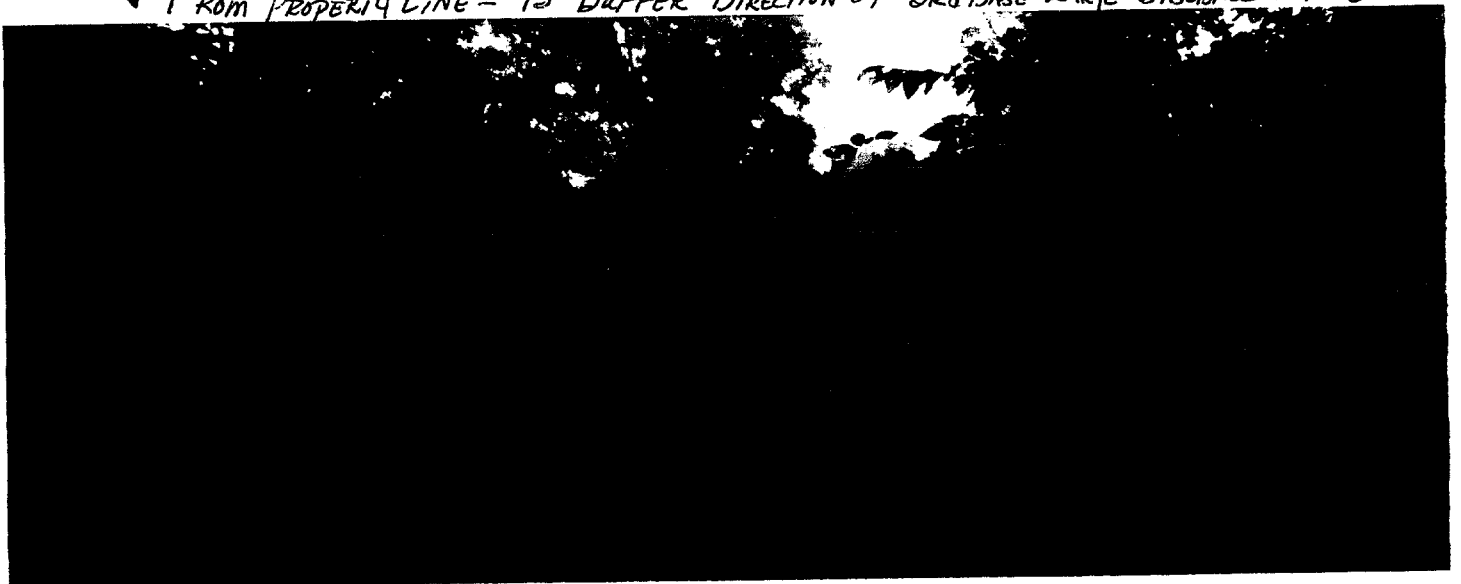
↓ VIEW FROM INSIDE DEN (T.V. ROOM) LOOKING AT OUTFIELD

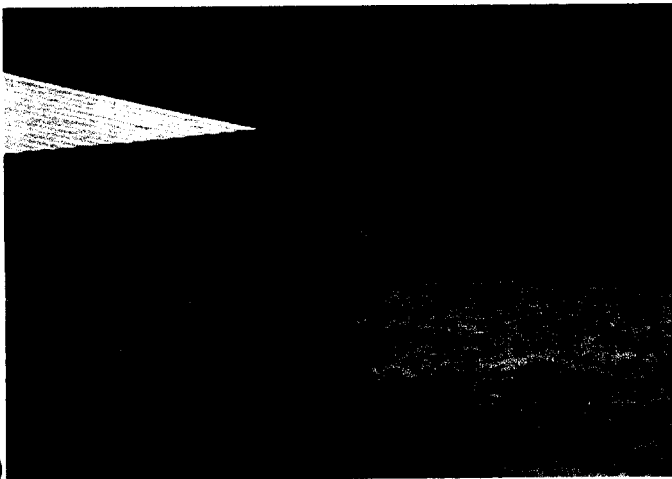
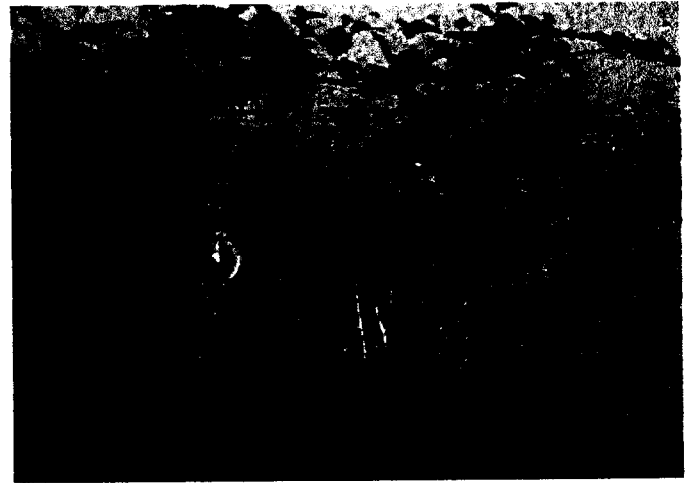
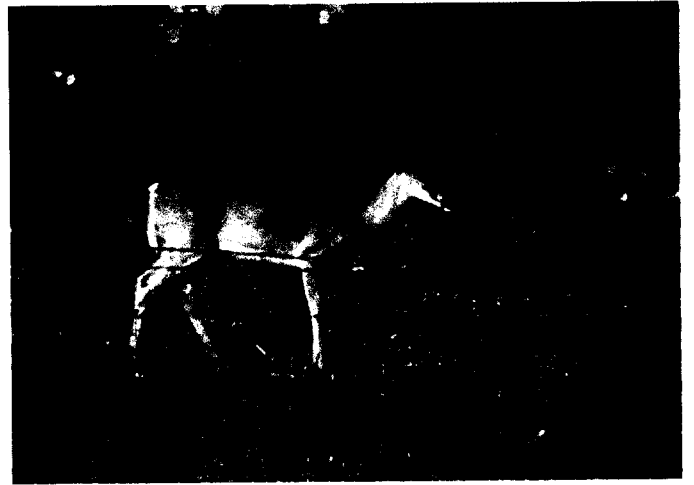


↓ VIEW FROM INSIDE DEN (T.V. ROOM) LOOKING AT OUTFIELD



↓ FROM PROPERTY LINE - 75' BUFFER DIRECTION OF 3RD BASE LARGE BASEBALL FIELD





VIEW FROM DEN WINDOW LOOKING AT AREA
BEHIND LARGEST BASEBALL FIELD

**August 17, 2006
Planning and Zoning Commission Meeting**

**Conditional Use Permit C-715
Cabarrus County Parks & Recreation Department**

Drawings

(See file)

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
Thursday, June 15th, 2006

Petition: C2006-03 (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).

Township: Number 3 – Odell

Property Location: Harris Rd. & Skybrook Drive

PIN#: 4670-45-7728

Proposed Lots: 71

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 directly to the west of the property. The property directly to the north is Skybrook's amenity center, and 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 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
3. School Adequacy Worksheet
4. WSACC Comments
5. Interpretation letter by Rodger Lentz
6. CMUD intent to serve letter

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
Thursday, June 15th, 2006

Code Considerations: The MDR district is a medium density residential zoning district. The minimum lot size is 2,500 sq feet under townhouse standards.

Development standards for town homes are:

- Front setback- 15 feet
- Side yard setbacks- 0/5 feet
- Rear yard setbacks- 15 feet
- Minimum avg. lot width is 24 feet
- Maximum impervious surface- 45%
- Maximum structural coverage- 35%

Special standards for townhouses include:

- Side yards are not required for interior townhouses, but street and rear yards shall be provide for all townhouses, and building separation requirements shall be maintained for all townhouse structures.
- All townhouse garages and parking areas shall be located to the rear.
- The maximum number of units allowed in a single building is eight.
- The first floor shall be located a minimum of two feet and a maximum of three feet above grade

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.

WSACC: **Tom Bach:** WSACC requests that all information concerning the proposed connection to the water line be submitted to the City of Concord by the developer's engineer. See attached letter for comments.

Fire Marshall's Office: **Steve Langer:** No Comments

Analysis: The subject parcel was rezoned from MDR to LDR per countywide rezoning changes June 20, 2005. The number of units and type of units (multifamily/town home) were originally approved under the Skybrook Master plan. Since no site plan was submitted as a part of the Skybrook Master plan for the subject property, all new site plans are to follow the new Cabarrus County Ordinance. Since LDR does not allow town homes, the developer must follow the general town home requirements as well as those for MDR zoning within the updated Cabarrus County

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
Thursday, June 15th, 2006

Ordinance. Open space requirements can be met through the overall Skybrook Master plan, as 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 designated 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, to determine the current zoning of LDR. 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) zoning, which allowed for town homes.

Since the proposed rezoning request is not compatible with all elements described in the Draft Northwestern plan, the Board should consider the information presented and decide whether or not using the subject property's previous zoning classification of MDR (for review purposes) is appropriate as it relates to the Planning and Zoning Board's vision for this area of Cabarrus County.

Recommendations:

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

1. The developer shall enter into a consent agreement with the Cabarrus County Board of Commissioners 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)



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.cmutilities.com
 5100 Brookshire Boulevard
 Charlotte, NC 28216
 Ph: 704/399-2221
 Fax: 704/393-2219

Colleen Nelson

From: Tom Bach [tbach@wsacc.org]
Sent: Thursday, May 25, 2006 2:27 PM
To: Colleen Nelson
Cc: Sherri Moore; Jan Sellers; Mark Lomax; Van Rowell
Subject: Preliminary Plat Review For The Cascades At Skybrook - Westfield Homes

Hi Colleen,

This is in response to your request for comments outlined in a memorandum dated May 22, 2006, regarding the preliminary plat review for the proposed development named The Cascades at Skybrook.

For most of this proposed development, the existing topography on the site drains northeast towards an existing gravity sewer trunk line owned and operated by the City of Concord. All information concerning the proposed direct service connection to this existing line should be submitted to the City of Concord by the developer's engineer. The preliminary plat also shows an existing 16" water line along Harris Road that is proposed to be tapped to serve this new development. Like the direct sewer service connection, the developer's engineer should submit all pertinent information to the City of Concord. The developer will also be required to complete an application in accordance with the City of Concord's Code of Ordinance (Chapter 62) in order to obtain water service to the site.

Information provided with the preliminary plat does not give projected water demand or sewer flows, even though the preliminary plat shows approximately 71 new townhome units are included in this proposed development. This information will be helpful in determining the adequacy of the existing water and sewer line infrastructure.

The followings comments are provided for your information and consideration:

- The proposed development is located in the existing utility service area of the City of Concord. Consideration should be given to insuring that the proposed water/sewer lines will be designed to City of Concord requirements.
- If the developer proposes to install sewer infrastructure for this site in coordination with the City of Concord, actual wastewater "flow acceptance" will not be considered by WSACC until approval of final site/civil construction plans by the applicable Jurisdiction (City of Concord). Flow acceptance must be requested by the Jurisdiction providing the retail sewer service. In addition, flow acceptance is granted in the order that they are received, provided that sufficient wastewater treatment and transportation capacity is available or is reasonably expected to be available.
- Please note that the WSACC Capital Recovery Fee (CRF) is required for each service to the development if sewer service is requested. The fee is collected at the time the building permit is issued, and is separate and not a part of any connection or tap fees required by the Jurisdictional retail sewer provider.

Please let me know if you have any questions regarding this information.

Thanks!

Tom

Thomas A. Bach, P.E.
Utility Systems Engineer
Water & Sewer Authority of Cabarrus County
P.O. Box 428
Concord, NC 28026

05/30/2006

Adequate Public Facility Worksheet – Schools

Please fill out the following questionnaire regarding the Skybrook development. This project is on the June 15, 2006 Planning and Zoning Commission meeting for consideration. Your response is required by May 31, 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 8, May 9, 2006.**

Elementary - 112.78%

Middle - 88.13%

High - 103.61%

3. How many students are expected from this development?

Based on 71 townhouses

Elementary - 16

Middle - 7

High - 5

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

Elementary - 154.36% **note: 800 seats will be gained with the opening of the new Carl Furr Elementary School. This should reduce stated capacity to approx. 87.82%.**

Middle - 118.35%

High - 120.97%

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.

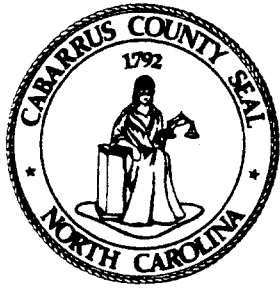
7. If there are not plans for new school facilities in the next two years, please describe the additional resources required to adequately serve the proposed development (attach an additional sheet if necessary)?

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. Klutz Date: May 31, 2006



November 29, 2005

Mr. John R. Loberg
Director of Land Development
Westfield Homes
11525 Carmel Commons Blvd., Suite 301
Charlotte, NC 28226

Re: Zoning interpretation for Skybrook Townhome development

Mr. Loberg:

The purpose of this letter is to respond to your request for interpretation regarding Cabarrus County's design standards for townhouses. More specifically, this letter responds to the general requirement that townhouses have parking and garages located to rear of each unit.

Section 5-7, Part E. Subsection 2-e provides County staff flexibility regarding design requirements for Amenity Subdivisions when the alternative design meets or exceeds the intent of the ordinance. In this case, the intent of the ordinance is to reduce the amount of paved surface at the front of each townhome and to reduce the visual impact a blank garage door can have on the streetscape. By limiting each unit to no more than a one car garage, turning the stairs leading to the front door so that they utilize the driveway (rather than a separate walkway) and utilizing a decorative garage door design (as discussed in our meeting) I feel that the proposed development meets the intent of the Cabarrus County zoning ordinance (pictures of the townhouses, as submitted for this review, are attached as reference).

In addition to meeting the intent of the regulations, Skybrook is also in a unique position. Having obtained subdivision approval several years prior to Cabarrus County's recent adoption of residential design standards it seems fair that some flexibility be granted in this case. While Skybrook was developed prior to the enactment of the County's current subdivision classification scheme, it most closely matches the requirements for Amenity Subdivisions therefore the application of the section cited above seems justified.

If you have any questions regarding this interpretation please contact the zoning division at 704-920-2141.

Sincerely,

Rodger H. Lentz AICP
Planning and Zoning Manager



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
 5100 Brookshire Boulevard
 Charlotte, NC 28216
 Ph: 704/399-2221
 Fax: 704/393-2219

Landscape Architecture • Urban Design • Civil Engineering • Land Planning

Design Resource Group

1230 West Morehead Street, Suite 214
Charlotte, NC 28208
704.343.0608 • fax 704.358.3093
www.drgrp.com

DRG transmittal

Date: Nov. 7, 2005

Fax: _____

To: Rodger Lentz 704.920.2019 (2144)
John Loberg 704.752.5865

Pages: 3

From: Krista Murphy

Reference: Skybrook Townhomes 065-004

Meeting Notes 11/1/05

DRG

**Design
Resource Group**1230 West Morehead Street, Suite 214
Charlotte, NC 28208
704.343.0608 • fax 704.358.3093
www.drgrp.com**MEETING NOTES****Date: 2 November 2005****Date of Meeting: 1 November 2005****Present: Rodger Lentz, Cabarrus County Planning Manager/Zoning Administrator;
John Loberg, Westfield Homes; Jim Guyton, Krista Murphy, DRG****Re: Skybrook Townhomes**

The following are notes from our meeting to discuss the process and conditions of development for the Skybrook Townhomes site. If you have anything to add or see any discrepancies, please let me know as soon as possible. Thank you.

- Parcel has been rezoned from MDR to LDR per countywide rezoning changes June 20, 2005.
- The number of units and type of units (multifamily/townhome) will be grandfathered under Skybrook Masterplan. Since no site plan was submitted as part of the Skybrook Masterplan, any new site plan will need to follow the NEW Cabarrus County Ordinance. Since LDR does not allow townhomes, need to follow the general townhome requirements as well as those for MDR (original zoning under Skybrook Masterplan) in NEW Ordinance. This interpretation can be challenged by the Planning Board.
- The site plan will need to be approved as a preliminary plat and go before the planning board (meets the third Thursday of each month).
- Open space requirements can be met through overall Skybrook Masterplan, as long as residents of this townhome subdivision are part of the Skybrook Homeowners' Association and have access to all amenities.
- Rodger and the County will follow-up on the requirements of the School Adequate Facilities Ordinance to determine if this was addressed as part of the overall Skybrook Masterplan approval or must still be addressed.
- Issues/requirements of the new Ordinance that will apply to/affect this project:
 - Townhomes must have rear-loaded garages and/or parking
 - Townhomes can NOT be slab on-grade, they must have FFE's between 2-3' from finish grade (crawlspaces or raised slab).
 - Townhomes must have a minimum of 3 units and a maximum of 8 units per building
 - Required Front Setback of 15' (10' on second side of corner lot)
 - Required Rear yard of 15'

- Required Side Yard of 5' for end units (10' building separation)
 - 50' perimeter/subdivision buffer for Skybrook along south and west property lines (can be reduced 33% with a 6' opaque masonry wall). This buffer can be on abutter's property if a deed restriction is recorded.
 - Streetyard along Skybrook Drive (probably already in place)
 - There is a requirement that there be no blank walls on the sides of the buildings that face the street (there is more detail on this in the Ordinance).
 - The street must be designed to public residential street standards requiring a 50' ROW, 28' BC/BC, 6' planting strips and 5' sidewalks on BOTH sides of the street. It may be possible to make an exception to have the streets be private, but they will still need to be designed to the public residential street standards.
 - The development will be required to have 2 means of access to it for emergency response, one off of Skybrook Drive and a right-in/right-out onto Harris Rd.
- A sketch plan/site analysis map must be submitted at least 2 weeks prior to the filing deadline for the Preliminary Plat Application.

We are reviewing the new Ordinance, and will follow-up with Rodger regarding additional questions we have regarding specifics of the new ordinance and how it relates to this project.

Memo

To: Cabarrus County Planning and Zoning Board
From: Susie Zakraisek, AICP, Planning and Zoning Manager
CC: File
Date: 08/07/2006
Re: Proposed Text Amendment to Chapter 3

- Per the direction of the Board at the July 20th Planning and Zoning Board meeting, attached you will find language to amend the Office/Limited Commercial Zoning District text to include a nursery/greenhouse as a permitted by right use.
- Per the direction of the Board at that same meeting, you will also find language to address the current LDR text which states that a nursery/greenhouse is permitted based on standards in the LDR zoning district. Staff research has determined that no applicable standards exist in the current zoning ordinance.
- You will be asked to provide a recommendation to the County Commissioners regarding the proposed change.
- Please look over the materials and be prepared to discuss these items at the meeting.

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)

COMMERCIAL DISTRICTS.

(1) Office/limited commercial. This district is intended to accommodate relatively small scale commercial and office development at an intensity complementary to residential land use.

Rationale. This district is used to provide both convenience oriented goods and services and for the permanent protection of adjacent or intermixed residential areas by permitting only a limited range of commercial activities. The district should be located near municipal boundary lines or areas of commercial growth and may border general commercial zones, light industrial, or high density residential mixed use zones. When bordering residential zones, care should be take to assure natural or manmade buffering so that the nonresidential activities are not a nuisance to residential use.

USES IN THE OFFICE/LIMITED COMMERCIAL ZONE:

Permitted Uses

- Automobile supplies
- Bank/financial institution/ATM
- Barber & beauty shops
- Car wash
- Civic organization facility
- Colleges & universities
- Convenience store with petroleum sales
- Convenience store without petroleum sales
- Drug store
- Dry cleaning/pick up station
- Family care home

Funeral home
Group care facility
Hospitals/ medical facilities
Hotels, motels, inns
Laundromat
Locksmith/ gunsmith
Mobile home retail sales
Movie theater
Office, professional
Parking lot, commercial or private
Pet shop/ grooming (enclosed)
Photographic studio
Public cultural facility
Public use facility
Religious institution (with a total seating capacity of 350 or less)
Religious institution (with a total seating capacity of 351 or more)
Restaurant, excluding drive-thru
Retail sales - shopping centers 10,000 - 50,000 square feet
Retail sales - shopping centers 10,000 square feet and less
Single family residential detached
Taxi stand

Permitted based on Standards (PBS)

Accessory apartment
Automobile rental
Automobile sales/ new, used
Bed & breakfast
Catering service
Contractor and trade shops
Home occupation
Landfill, demolition (one acre or less)
Mobile office, temporary
Multifamily residential
Nursery/ daycare center
Printing & reprographic facility
Recreational facility, indoor
Recyclable materials drop-off
Repair garage, auto
Repair shop, small engine
Restaurant with drive-thru facility
Self-service storage facilities
Townhouses

Conditional Uses

CABARRUS COUNTY ZONING ORDINANCE

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)

COMMERCIAL DISTRICTS.

(1) Office/limited commercial. This district is intended to accommodate relatively small scale commercial and office development at an intensity complementary to residential land use.

Rationale. This district is used to provide both convenience oriented goods and services and for the permanent protection of adjacent or intermixed residential areas by permitting only a limited range of commercial activities. The district should be located near municipal boundary lines or areas of commercial growth and may border general commercial zones, light industrial, or high density residential mixed use zones. When bordering residential zones, care should be take to assure natural or manmade buffering so that the nonresidential activities are not a nuisance to residential use.

USES IN THE OFFICE/LIMITED COMMERCIAL ZONE:

Permitted Uses

- Automobile supplies
- Bank/financial institution/ATM
- Barber & beauty shops
- Car wash
- Civic organization facility
- Colleges & universities
- Convenience store with petroleum sales
- Convenience store without petroleum sales
- Drug store
- Dry cleaning/pick up station
- Family care home

Funeral home
Group care facility
Hospitals/medical facilities
Hotels, motels, inns
Laundromat
Locksmith/gunsmith
Mobile home retail sales
Movie theater
Nursery/Greenhouse
Office, professional
Parking lot, commercial or private
Pet shop/grooming (enclosed)
Photographic studio
Public cultural facility
Public use facility
Religious institution (with a total seating capacity of 350 or less)
Religious institution (with a total seating capacity of 351 or more)
Restaurant, excluding drive-thru
Retail sales - shopping centers 10,000 - 50,000 square feet
Retail sales - shopping centers 10,000 square feet and less
Single family residential detached
Taxi stand

Permitted based on Standards (PBS)

Accessory apartment
Automobile rental
Automobile sales/new, used
Bed & breakfast
Catering service
Contractor and trade shops
Home occupation
Landfill, demolition (one acre or less)
Mobile office, temporary
Multifamily residential
Nursery/daycare center
Printing & reprographic facility
Recreational facility, indoor
Recyclable materials drop-off
Repair garage, auto
Repair shop, small engine
Restaurant with drive-thru facility
Self-service storage facilities
Townhouses

Conditional Uses

Rationale. This district is designed to provide permanent protection for those who want to live in a low density residential environment. The district, while focused on single-family residential development, is designed to allow a wide variety of residential types.

USES IN LOW DENSITY RESIDENTIAL:

Permitted Uses

Agriculture, excluding livestock
Family care home
Group care facility
Semi-attached house
Single family detached residential

Permitted based on Standards (PBS)

Accessory apartment
Agriculture, including livestock
Bank/financial institution/ATM
Bed and breakfast
Cemetery
Civic organization facility
Convenience store with petroleum sales
Convenience store without petroleum sales
Gas station
Home occupation
Home occupation, rural
Landfill, demolition (one acre or less)
Mobile home class I
Mobile office, temporary
Nursery/daycare
Nursery/greenhouse
Public cultural facility
Religious institution (total seating capacity 350 or less)
Rest/convalescent home with 10 beds or less
Restaurant, excluding drive-thru
Stables, commercial

Conditional Uses

Colleges & universities
Elementary & secondary schools

Rationale. This district is designed to provide permanent protection for those who want to live in a low density residential environment. The district, while focused on single-family residential development, is designed to allow a wide variety of residential types.

USES IN LOW DENSITY RESIDENTIAL:

Permitted Uses

Agriculture, excluding livestock
Family care home
Group care facility
Nursery/Greenhouse
Semi-attached house
Single family detached residential

Permitted based on Standards (PBS)

Accessory apartment
Agriculture, including livestock
Bank/financial institution/ATM
Bed and breakfast
Cemetery
Civic organization facility
Convenience store with petroleum sales
Convenience store without petroleum sales
Gas station
Home occupation
Home occupation, rural
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 beds or less
Restaurant, excluding drive-thru
Stables, commercial

Conditional Uses

Colleges & universities
Elementary & secondary schools

ZONE:	Ag/op	CR	LDR	MDR	HD/M	O/I	OF/LC	GEN C	LIMI	GEN I
19) Convenience store without petroleum sales	PBS	PBS	PBS	PBS	PBS		P	P	P	P
20) Drive-in theater								P		
21) Drug store					P		P	P		
22) Dry cleaning/laundry plant								P	P	P
23) Dry cleaning/pick up station							P	P		
24) Gas station	PBS	PBS	PBS					P	P	P
25) Hotels, motels, & inns							P	P	P	
26) Laundromat					P		P	P		
27) Locksmith/gunsmith							P	P		
28) Mobile home retail sales							P	P		
29) Movie theater					P		P	P		
30) Multimedia production and distribution complex	C	C						P	P	P
31) Nursery/daycare	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	C	C
32) Nursery/greenhouse	P	P	PBS					P	P	P
33) Office/professional less than 30,000 square feet					PBS	PBS	P	P	P	P
34) Office/professional 30,000 square feet or more						PBS		P	P	P
35) Parking lot/commercial or private						P	P	P	P	P
36) Pet shop/grooming (enclosed)					P		P	P		

Proposed

◆ Chapter Three Establishment of Zones

ZONE: USE:	Ag/op	CR	LDR	MDR	HD/M	O/I	OF/LC	GEN C	LIM I	GEN I
19) Convenience store without petroleum sales	PBS	PBS	PBS	PBS	PBS		P	P	P	P
20) Drive-in theater								P		
21) Drug store					P		P	P		
22) Dry cleaning/laundry plant								P	P	P
23) Dry cleaning/pick up station							P	P		
24) Gas station	PBS	PBS	PBS					P	P	P
25) Hotels, motels, & inns							P	P	P	
26) Laundromat					P		P	P		
27) Locksmith/gunsmith							P	P		
28) Mobile home retail sales							P	P		
29) Movie theater					P		P	P		
30) Multimedia production and distribution complex	C	C						P	P	P
31) Nursery/daycare	PBS	PBS	PBS	PBS	PBS	PBS	PBS	PBS	C	C
32) Nursery/greenhouse	P	P	P				P	P	P	P
33) Office/professional less than 30,000 square feet					PBS	PBS	P	P	P	P
34) Office/professional 30,000 square feet or more						PBS		P	P	P
35) Parking lot/commercial or private							P	P	P	P
36) Pet shop/grooming (enclosed)					P		P	P	P	P



3901 Highway 73 East
Concord, N.C. 28025

Office (704) 782-1176
Fax (704) 795-0984

June 13, 2006

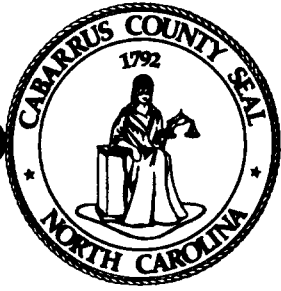
Cabarrus County Planning and Zoning
Concord, North Carolina

To Whom It May Concern;

I would like to request a line item addition to my existing zoning (LC), to include the sale of landscape products and nursery items. This property is located at the intersection of Highway 73 E. and Irish Potato Road (PIN 5640-99-6779).

Sincerely,


Ronald R. Alley
Ridgewood Homes, Inc.



Planning and Zoning Commission Minutes
August 17, 2006
7:00 P.M.

Mr. Larry Griffin, Chairman called the meeting to order at 7: 04 p.m. Members present in addition to the Chair were Mr. Todd Berg, Ms. Brenda Cook, Mr. Jon Cuff, Ms. Karen Daugherty, Mr. Danny Fesperman, Mr. Leonard Lancaster, and Mr. Ian Prince. Attending from the Planning and Zoning Division were Ms. Susie Zakraisek, Planning and Zoning Manager, Ms. Colleen Nelson, Sr. Planner, Mr. Jay Lowe, Zoning Officer and Ms. Arlena Roberts, Clerk to the Board.

Approval of Minutes

Mr. Berg **Motioned, Seconded** by Mr. Fesperman to **Approve** the July 20, 2006 minutes, with a correction to the first sentence in the first paragraph on page 39. (See note below) The vote was unanimous.

*The vote was 5 to 4 to **Approve** Petition C06-05 06(R).*

New Business – Board of Adjustment Function:

Conditional Use Permit C-715 - Cabarrus County Parks and Recreation Department

Request: The applicant is seeking permission to construct a public use facility (Public Park)

Mr. Jay Lowe, Zoning Officer, addressed the board stating because one board member is missing he notified the applicant that they would need 8 out of 8 votes for approval of the Conditional Use Permit; the applicant would like to proceed with the application with the 8 member board.

The Chair swore in Mr. Jay Lowe, Ms. Londa Strong, and Ms. Charlotte Snodgrass.

Mr. Jay Lowe presented Conditional Use Application C-715. The applicant is Cabarrus County Parks and Recreation Department and the property owner is Cabarrus County. The zoning on the property is (LDR) Low Density Residential; the location of the property is 1300 Cox Mill Road and is the location of the existing Cox Mill Elementary School. He said this park will be on the same piece of property with the school only it will be sitting behind it. The size of the total property is 62.40 acres. The applicant has submitted a complete application form and the additional information required by the Cabarrus County Zoning Ordinance for a Conditional Use Permit. The adjacent property owners have been notified by mail.

Mr. Lowe apologized, saying he did not miss a property owner but her notice got mailed to another adjacent property owner. He spoke with her; she is here tonight and may have some questions. He said there are some matters about this property, or this park, that she would like to discuss with the board. He said luckily, we do go overboard with our advertisements, so with the newspapers and the signs, that particular adjacent property owner did know about this meeting.

Mr. Lowe said the public hearing notice was published on August 6th and August 10th of 2006 in the Charlotte Observer's Cabarrus Neighbors, and August 7th and August 14th of 2006 in the Independent Tribune. A zoning public hearing sign has been placed on the property advertising the time and place of the public hearing. As per section 3-8 (Table of Permitted Uses) of the Cabarrus County Zoning Ordinance, Public Use Facilities are allowed as a Conditional Use in the LDR (Low Density Residential) zoning district.

He said the Cabarrus County Parks and Recreation Department is seeking permission to construct a public park behind the existing Cox Mill Elementary School. If granted, the park will include walking trails, ball fields and a concession building with bathrooms.

He said typically if the board were to grant this permit, the required parking for this park would be of an impervious surface such as concrete or asphalt; asphalt in this case. He said if you look at the site plan, you will notice there is a lot of wetlands and flood plains on that particular site. He said it stands to reason that anytime you have an abundance of cars and so forth on a site like that there is the potential for oil spills, freon and other liquid pollutants. He said as rain water falls in that area the pollution could potentially (at a faster rate) roll into those wetlands and flood plains, etc.

Mr. Lowe said if the board were to grant them a condition on this to do a gravel lot, then the water may be reduced at a slower rate and it could be filtered somewhat. He said there is wildlife, some herons and other things in those wetlands so that is something to think about. He said the applicant has the money in their grant to do a paved parking lot and they are actually looking at doing some pervious pavers. He said they have priced them and they are fairly expensive; but if it costs 3 to 4 times more to do them, then they will not be able too and they would have to go with the asphalt. He said if you do grant this, you may want to consider granting them some relief on the paving requirement for that area.

Mr. Lowe said he received one call in opposition of this park from an adjoining neighbor and she is here tonight. He said the applicant has had meetings with the adjoining property owners and neighbors in this area and the applicant seems to want to be good citizens and good neighbors in this area. He said that in speaking with the neighbor in opposition, she had some concerns about buffering in that area. We have looked at the plans several times and we want to make sure that the wetlands and flood plains are protected. He said she is south of this property and there is an existing tree line on that property and the applicant has indicated that they are willing to plant more in those areas with evergreens if need be. He said it looks like the buffer they are holding there is a 75 foot buffer which is what the ordinance calls for in this particular use.

He would be glad to answer any questions the board may have; the applicant and one of the adjoining property owners is here as well.

The Chair asked if there were any questions.

Mr. Berg asked if there were drawings for the concession buildings.

Mr. Lowe said they were on the plans the board received. He said there were no separate drawings for the concession building. He said when they go to build it, they will need to turn in plans to the building inspections.

The Chair asked Ms. Snodgrass to address the board.

Ms. Charlotte Snodgrass, resident, addressed the board stating that she and her husband are concerned about the 6 ball fields and they are really concerned about the noise. She said she spoke with Londa Strong and Steve Little with Parks and Recreation and they explained to her about the special lighting to try and keep the light from affecting them. She said that is fine but she feels there is not enough being done to stop the noise. When she is out in her yard, she can hear the children when they are on the playground and that is approximately 1500 feet from her front yard. She said Mr. Lowe and Mr. Whaley, the Engineer, told her that from the front corner of her house to the back of the ball field is 260 feet or a little bit shy of that. When she hears the children playing at 1500 feet, she does not think that could be compared, the impact of the noise would be 6 times greater than what she hears now. She can hear the principal dismiss the buses one at a time in the afternoon. She said the noise factor is an extreme concern to them; their bedroom is in the front corner closet to the ball field.

Ms. Snodgrass wonders why the largest of the fields were placed closest to the houses. She said in the plan it calls for 1 to 2 inch caliper plants many of which are deciduous. She feels like they are deserving of much better plantings than what is planned for.

Mr. Fesperman asked how many acres they had.

Ms. Snodgrass said 6 acres. She said her mother, Mrs. McGraw, has 63 acres.

Mr. Fesperman asked if she was living there before the school was constructed.

Ms. Snodgrass said yes, she has been there 24 years and was excited when they told her the school was coming, especially that it was elementary. She said they have been good neighbors.

The Chair asked Ms. Snodgrass what could be done to make it more acceptable to her. He said you mentioned larger evergreens and more buffering.

Ms. Snodgrass said a much heavier concentration of the plantings in the first 300 feet where the impact would be the greatest to their personal residence. She feels it would be better to have evergreens, maybe Nelly Stevens hollies, they are extremely fast growers; minimum 7 to 10 gallon size.

The Chair asked if there were further questions.

Mr. Berg said along that property line they are showing a 75 foot buffer with trees. He asked if the existing trees had been counted.

Mr. Lowe said we have not counted the trees, we went by what was on the site plan; it shows an existing wood line. We do not know how many trees are in that wood line but we do know that there is an existing wood line and the aerial shows that. He said looking at the plan, it looks like they are planning to plant some Leland Cypress which is an evergreen, it looks like they had a good many of those in there so combined with the existing tree line, he would say they had enough because the ordinance only calls for 11 trees and 40 shrubs for every 100 linear feet.

Mr. Berg asked if that were for a level two buffer.

Mr. Lowe said that is correct.

The Chair said they may meet the ordinance but when you are less than 100 yards away from a ball field...

Mr. Lowe said that as staff all we can do is make them meet the ordinance requirement.

Mr. Berg said reading in the conditional use section it says if it abuts a residential property a level 1 buffer is required which would increase it to 100 foot buffer.

Mr. Lowe asked if that was under the public use facility.

Mr. Berg said yes, page 8-19.

Mr. Lowe said you are correct and that would increase the buffer by 25 feet. He said there is a provision in the charts that says if they put in an opaque screening along those areas they could reduce the buffer by one half and go down to 50 feet. He said there is a good chance they would meet that criteria, and of course in those areas that would not meet the criteria, then it would need to be at 100 feet.

Mr. Berg asked if the opaque screening would be the existing trees.

Mr. Lowe said that, or if they were to plant more to make it opaque, they could reduce the buffer by 50% but they chose not to do that. He said Leland Cypress is typically what is put in when they are trying to meet the opaque requirements.

Mr. Prince asked if any of the existing school grounds have gravel parking.

Mr. Lowe said not that he is aware of, he is pretty sure all of that was of impervious surface.

Mr. Prince said once that gravel gets compacted it will not be very pervious.

Mr. Lowe said they requested that he ask. He met with the architect and those things were thought about that perhaps it may be filtered a little more than it would be if it were completely impervious. He said it depends on what they gravel it with, there is an ABC stone that is somewhat bigger and it could be filtered and become more pervious.

Mr. Berg asked if they have completely ruled out the pervious blocks like the turf graders.

Mr. Lowe said they are looking into that but the cost could be 3 to 4 times higher than asphalt would be. He said they are not trying to get by with anything; they are going to have the handicap spaces and all the road access to that parking will be asphalt. He said they can pave that parking lot but will it more detrimental to the environment than it would be otherwise?

Mr. Prince said the handicap parking and the access road in asphalt would keep failing and falling off and in 12 months it will look pretty bad.

Mr. Fesperman said you will track the gravel, it will be picked up in tires, it will be moved out into the other areas and it is unsightly.

Mr. Prince said it is a nice plan, everything works fine and then there is a darn great hole in the middle.

Mr. Lowe said it is something he was asked to present to the board for consideration, if you do not think it is a good idea, than they will have to meet the ordinance requirements.

Mr. Berg thinks there are better ways to do it. He said it is probably better than asphalt; he has less problems with the gravel than he does with the buffer.

Mr. Lowe said there are other materials out there. He said typically in situations like this it is because someone has too much impervious material. We have had a number of churches that have run into that problem and had to spend the extra money for those pervious materials such as those pavers or blocks. He said this is an unusual situation and it is not a question of whether or not they are not willing to meet the ordinance. He said they have plenty of room to have more impervious surface it is just the matter of what it will do to the environment. He said the bottom line is they were trying to protect the environment as much as possible and they thought that this was one way.

Mr. Fesperman asked what is the cost projected by the County for this park.

Ms. Londa Strong, Assistant Director for Cabarrus County Parks and Recreation, addressed the board stating that 2.4 million is what they have for the entire project, and that includes lights and everything. She said they would rather have a different parking lot. She said Mr. Dennis Testerman with the Soil and Water Conservation sits on their steering committee and he along with Mr. Steve Whaley from W.K. Dixon thought it would be better to have graveled impervious parking because of all of the flood plain areas and the environment they have. She said they are bidding pervious as an alternate but just from the numbers, they do not feel they could afford that; if they could afford it they would most definitely do that. She said that the budget is pretty much fixed.

Mr. Lancaster asked what the cost difference is between asphalt and gravelling the parking lot.

Ms. Strong said she did not have those figures with her but that she could get them. She said they have a budget for the parking lot and everything broken down as gravel not as asphalt.

Mr. Prince asked if the statement made before that asphalt is already in the budget correct.

Ms. Strong said no, gravel is in the budget and they are bidding the pervious stone as an alternate.

Mr. Lowe said the reason he made that statement is because he talked with the architect on this plan and was told, or maybe he misunderstood him to say, that they could do asphalt, that they had the money to do the asphalt but they were considering a pervious type material. He said that did not come from the applicant that is what the architect told him.

Ms. Strong said they originally talked of having it asphalted. She said Soil and Water Conservation, along with Steve Whaley, advised that it would be better for that particular piece of property not to have any more than we already have of the impervious areas.

Mr. Fesperman asked what the park hours will be.

Ms. Strong said for all of the sports county wide, Monday through Thursday, the deadline is 10:00 p.m. and Friday and Saturday until 11:00 p.m. She said that is the latest that anyone would be at the park.

Mr. Fesperman asked if the facility will be gated.

Ms. Strong said no, it will be open. She said the school has a gate on the back side and they will be using the existing road the school has that goes to the fields now. She believes they do have a gate there so it could be locked.

Mr. Prince asked how the applicant feels about increasing the buffer.

Ms. Strong said they have no problem and they have talked with Steve Whaley, the Engineer, in regard to that particular area. They want to be good neighbors and do not want Ms. Snodgrass or anybody else there mad or upset because there is noise. She has Mr. Whaley getting figures to show what they can do to increase the different types of borders. She said one thing that may help a little on the noise factor is the bleacher area for that particular field will be back toward the gas line and the elevation there is approximately 12 feet lower than Ms. Snodgrass's property and would be graded out kind of in a bowl. She said that is where the bleachers and the backstop will be. She said hopefully the elevation difference will help some; left field is 2 feet difference from her property and drops down between the access roadway going down to Ms. Snodgrass's property, it is pretty level there but that is just one side. She said where the majority of the people will be according to the grading plans will be 12 feet lower than Ms. Snodgrass's house, hopefully that will help too.

Ms. Strong said they want to make everyone as happy as they can, she knows everyone will not be happy but they are willing to do everything they can to make this another good neighbor.

Mr. Cuff asked what is the latest any activity can take place in this proposed site.

Ms. Strong said Monday through Thursday until 10:00 p.m. and Friday and Saturday 11:00 p.m.

Mr. Cuff asked who would be there at 10:30 on a Friday or Saturday night.

Ms. Strong said baseball and softball, the older age group. She said the younger age group has an earlier curfew regardless; so there would be fewer people there at that time.

Mr. Cuff asked if they have to leave the premises, the entire property by 11:00 p.m.

Ms. Strong said yes, that is the lights out curfew but they try to everyone out by 10:30 and lights out by 11:00 p.m.

Mr. Cuff asked if there was a reason why it could not be restricted to 10:00 p.m. rather than 11:00 p.m.

Ms. Strong said the number of games and teams are what has pushed it to be where it is now. She said especially the Odell area; Odell and Harrisburg have a lot more teams with kids than anybody else with fewer fields to participate on. She said they get out of there as soon as they possibly can but that is the latest that they are allowed to stay there. She said that is there agreement with the School Board.

Mr. Fesperman asked if the lighting is on a timer.

Ms. Strong said yes, and it is a new system developed by Musco called Light Structure Green which provides 50% less spill lighting than any of the systems now and there will be 2/3 less fixtures. She said there will be less spill, less glare anywhere around and has more light directly on the field.

Mr. Fesperman said it is state of the art for sure.

Ms. Strong said it is, it cost a little more but we felt like it was definitely worth it.

Mr. Cuff asked if Musco will actually install the lighting.

Ms. Strong said that S & S Electric will be the ones who will actually install it with a Musco engineer.

Mr. Cuff asked if they will do the adjustment on the lights.

Ms. Strong said yes, that will all take place before they leave.

Mr. Lowe said when you were talking about expanding the buffer; it looks like by the site plans they are right on the 75 foot limit and they may not have room to expand it distance wise. He said maybe you were thinking about the materials inside of the buffer zone that could possibly be done. He was not sure what was meant by that.

Mr. Berg would like to see them demonstrate that they meet the Level 1 buffer requirements, whether that is with the 100 feet or with the opaque evergreens screening. He asked Mr. Koch if this could be tabled to allow the applicant to make revisions and come back or do we have to act on it as it is.

Mr. Koch said if they are agreeable to doing that you could make it a condition of the permit process.

Mr. Berg said his concern is if you look at the site plan it may not be that easy to do. He said if they have to begin shrinking ball fields and shifting things, it will affect all the grading and everything else.

Mr. Lowe said they will have to make that area opaque which they may have done. He has a feeling that it probably is opaque there but we will have to get documentation in our office to that effect.

Mr. Koch asked if there were any issue with the Level 1 buffer.

Mr. Lowe thinks the issue is going to become are you willing to make that whole buffer zone opaque.

Ms. Strong said yes.

Ms. Snodgrass reiterates that originally she was told that the park would not be open as late as 10:00 or 11:00, that it would be more like 8:00 or 9:00. She said her husband has to be at work at 6:00 in the morning so they turn in by 9 at night which is even more reason to have more buffer there.

The Chair asked if there was any further discussion.

Mr. Lowe said if you do put a condition in there to make that buffer opaque then the applicant has the right to make that buffer a 50 foot buffer unless the board specifically says otherwise. He said if you want them to keep a 75 foot buffer and make it opaque you will need to make that a specific condition with this permit.

Ms. Daugherty said basically you are saying the condition needs to be more specific than meeting the Level 1 buffer.

Mr. Lowe said that is correct, and it even needs to be more specific than saying making it (the buffer) opaque because if they make it opaque they could go from 75 down to 50.

Ms. Daugherty asked if the condition would be to maintain the 75 foot buffer and make it opaque.

Mr. Lowe said that is correct.

Ms. Strong said that would be acceptable if that is what the board wanted and felt was of the best interest of everyone, they would have no problem.

The Chair asked if there was any discussion about the parking lots, gravel versus asphalt.

Mr. Fesperman said this is tough because it is in an environment that is very sensitive. He said the gravel is going to be a pain in the butt for everybody unloading and loading and moving there equipment; everything about this is a little more difficult by having gravel. He does not care for gravel but it is an environmental recommendation and they feel it will help that area or they would not have commented the way they did. He said asphalt is an oil based product and very expensive right now.

The Chair said it is \$4.00 a yard.

Mr. Prince said every gravel lot he has ever put in he had to come back and rebuild it. He said it is bad practice.

Mr. Fesperman said exactly, it is a hassle. He said it is a public park and we are trying to make everything as easy as we can for a public park area.

Ms. Daugherty said you would think a public park would be environmentally friendly, and if that is the recommendation of the environmental engineers, then we should give that some thought.

Mr. Prince said that is that is the part he struggles with because you have a 400 foot filter between the parking area and any sensitive area. He said that seems a bit excessive.

Mr. Cuff said the greatest filtration system in the world is Mother Nature and soil, anybody will tell you that. He said all one has to do is walk across one of the shopping centers or public parking areas and see anti-freeze, motor oil, transmission fluid and everything else sitting on the black top. He said the rain comes along, washes it off, and it ends up in our drainage systems and eventually probably in our reservoirs, he would rather see it stay on site in that parking lot.

He said another fact is leaking antifreeze is a wonderful attraction for any animal, wild animal or domestic; as soon as they drink antifreeze you might as well pack them off to the cemetery. He said it is practically an instant killer. He is in favor of the gravel parking lot and he is sure that the parks and recreation department can keep it up and make sure that it stays prim and proper.

Mr. Berg hopes the bids are good and they are able to take the alternate and do the turf grid, that would be the ideal situation.

The Chair asked for a motion.

Mr. Cuff **MOTIONED, SECONDED** by Mr. Berg to **APPROVE** Conditional Use Permit C-715 with the following conditions:

1. Level 1 requirements with a minimum of a 75 foot opaque buffer
2. Gravel Parking lots

Mr. Fesperman said he still has a problem with the gravel situation.

Mr. Prince said if the environment is the driving concern with the gravel; gravel is not the solution. He said it is an inappropriate solution for that problem.

Mr. Cuff said that is a matter of opinion.

Mr. Prince said yes it is; it has been his experience in building parking lots in gravel, asphalt, concrete, pervious surface, grass paver and block paver; it is his opinion.

Mr. Berg asked if Mr. Prince and Mr. Fesperman were okay with asphalt or were they holding out for the pervious other material.

Mr. Prince said the best alternative is a properly engineered pervious surface if the environmental run off is truly a concern.

Ms. Daugherty thinks environmental run off truly is a concern on this site, if you visited the site you would recognize that it is.

Mr. Berg said for that reason he would not support the asphalt, if you want to push for the engineered pervious system he would support that.

Ms. Daugherty asked if at this point would we be better off tabling this and giving them (the applicant) the option to come back and say that they have a pervious option; we already know that it is not going to happen. She said give them the option to come back with that rather than come to a vote now and it not pass.

Mr. Koch said why don't we see what the applicant's position is; you certainly have the right to table it regardless of what there position is on it, but you might want to get some input from the applicant if that looks like what may be the consensus for this evening if there is some disagreement on this condition about pervious versus impervious surface.

Mr. Lancaster said this is obviously a budgeted project, asphalt is \$4 to \$5 a yard and the pavers are \$30 to \$40 dollars a yard, so if the pavers are put into place, you are going to run into a budget issue. He said you have to remember we are working with a county organization that is on a pretty tight budget.

Ms. Strong said one of their concerns is that a lot of their figures came in around October, November, and December, now it is September and we know how much everything has gone up since then. She said there is some contingency in there but their budgets were just estimates to the best of the engineer's ability at the time. She said they just bid on lights that they had priced on at about the same time and just the wire had gone up 8% on the lights in that same amount of time. She said yes, as an alternate, they had the pervious pavers in there and that is there first choice if they can afford it but they just don't know and will not know until the bids come in.

Ms. Strong said they would much rather have the pervious than the gravel but they have a lot of environmental issues, the drain areas, the fields are not level, they have several different pikes from up to all the way down to the creek; there are some catch basins in between so that if the water comes off there pretty quick it will go into those and straight to the creek. She said if you have 400 feet between the parking lot and the creek, that does not mean that the water is going to get filtered all of that way; it will be graded so that the water goes around the fields and not through the fields and that is where the catch basins are to catch the water and take it. She said in some cases less than 100 feet to catch the water that has the oil or anti-freeze or what ever on it before it has 400 feet to go.

Mr. Lancaster said we keep making this an environmental issue but in past dealings with Steve, he also knows that is the reason the ball fields are staying open until 11:00 is because we are in desperate need of more ball fields and if this project runs from 2.4 million to 5 or 6 million because we put in paver parking lots, we will have an issue of being able to build any other fields any where else. He knows it is an environmental issue but it is also an economic issue for parks and recreation.

Ms. Strong said they are hoping that when the bids come in they will still be able to afford them on everything.

The Chair said the motion and second is still on the floor and we do not have another motion to table or anything else.

Ms. Strong said it is a short time table because this is a replacement for the Odell fields and our goal is to have those fields ready for play in fall 2007, because they have been told that Odell will be gone at that time. She said there will be about 1100 to 1200 kids to put somewhere else if we do not have these fields ready.

There being no further discussion the Chair called for a vote. The vote was 6 to 2 to **Approve** Conditional Use Application C-715, with Mr. Berg, Ms. Cook, Mr. Cuff, Ms. Daugherty, Mr. Griffin, and Mr. Lancaster voting in favor of approval. Mr. Fesperman and Mr. Prince voted in favor of denial. Conditional Use Application C-715 **Denied**.

Mr. Koch said the board needed to have findings to support their decision on a Conditional Use.

The consensus of the Board is to have Mr. Koch prepare the findings and submit them at the next meeting.

New Business - Planning Board Function

Preliminary Subdivision Plat Approval – Petition C2006-03(S) Cascades at Skybrook

Ms. Colleen Nelson, Senior Planner, addressed the Board presenting Petition C2006-03(S) Preliminary Plat Approval for Cascades at Skybrook. She said the applicant is Westfield Homes of the Carolinas and the property is zoned (LDR) Low Density Residential. She said they are proposing a 71 unit attached single family townhome subdivision; the site is approximately 7 acres and is located on the corner of Harris Road and Skybrook Drive and is a part of the Skybrook Subdivision. The subject property is surrounding by (LDR) Low Density Residential, to the west is the North Mecklenburg Aquatic Center, across the street is (OI) Office Institutional zoning and that is residential and vacant. The subject property is currently vacant. The infrastructure will be served by Charlotte Mecklenburg Utilities Department (CMUD).

Ms. Nelson said special standards for an attached single family subdivision requirements are:

- Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses and building separation requirement shall be maintained for all townhouse structures.
- All townhouse garages and parking areas shall be located to the rear. (Ms. Nelson said there was a letter from Mr. Rodger Lentz, former Planning and Zoning Manager, stating that limiting each unit to one car garages, turning the stairs

leading to the front door and decorative garage door design will take place instead of putting the parking in the rear).

- Maximum number of units allowed in a single building is eight.
- The first floor shall be located a minimum of two feet and a maximum of three feet above grade.

Ms. Nelson said the schools that serve this area are inadequate at this time. She said soil and erosion control plans are needed before commencing any land disturbing activities. NDDOT is requiring a driveway permit; WSACC is requesting that any information concerning the proposed connection to the water line be submitted to the City of Concord. She said the Fire Marshall's office had no comment at this time.

Ms. Nelson said the subject parcel was rezoned from (MDR) Medium Density Residential to (LDR) Low Density Residential per the countywide rezoning change in June 20, 2005. She said the numbers of units were originally approved in 1999 as single family attached under the Skybrook Master Plan. She said no site plans were given at the time of approval of the Master Plan so they are to follow the new Ordinance. Since (LDR) Low Density Residential does not allow townhomes they will be required to follow the regulations for (MDR) Medium Density Residential. She said Open Space requirements have been fulfilled through the overall Skybrook Master Plan.

Ms. Nelson said as for The Land Use Plan, the draft version of the updated Cabarrus County Northwestern Area Plan recommended the subject property to be a density of 1-3 units per acre. This draft plan was used in the rezoning of the County as of June 20, 2005. She said the proposed subdivision meets the requirement that it is residential however, it does exceed the intensity of residential development; there is no townhome LDR zoning classification. She said since the proposed subdivision is not compatible with all the elements described in the Draft Northwestern Area Plan, the Board should consider the information presented and decide if using the subject properties' previous zoning classification of (MDR) Medium Density Residential is appropriate as it relates to the Planning and Zoning Boards vision for this area of Cabarrus County.

Ms. Nelson said if the Planning Commission grants approval of the subdivision, it is requested that the following conditions be added:

1. The developer shall enter into a consent agreement with the Cabarrus County Board of Commissioners to address school adequacy (Schools/APFO)
2. The developer shall obtain a driveway permit from NCDOT (NCDOT/APFO)
3. The developer must gain approval by the Division of Environmental Health and Natural Resources for the connection to water and sewer (CMUD).

Ms. Daugherty said you stated that the open space requirements are met through the overall Skybrook Master Plan as long as the residents will be part of the homeowners association. She asked if they will be part of the homeowners association.

Ms. Nelson said yes, because it is a part of the Skybrook Subdivision.

The Chair said they got caught up in this rezoning; when Rodger was approached in November 2005 about this, he indicated that he believed they were in a unique position and that it seemed fair that some flexibility be granted in this case. The Chair said that Rodger indicated that this closely matched the requirements for an amenity subdivision. The Chair asked Ms. Nelson if she is saying she believes that these designs satisfy the requirements for an amenity subdivision.

Ms. Nelson said according to the ordinance yes, as long as it follows the development standards for townhomes and the (MDR) Medium Density Residential.

The Chair said we are not asking for a rezoning, we are asking for approval.

Ms. Nelson said no we are not asking for a rezoning and yes we are asking for approval at your discretion.

Ms. Daugherty asked why they aren't asking for rezoning.

Mr. Koch said that is a good question actually. He said we have been working on that some this afternoon trying to figure out where this matter stands.

The Chair said he does not understand why you have a Master Plan approved in the first place and then turned around and rezoned it to (LDR) Low Density Residential.

Ms. Daugherty asked if this was part of the Master Plan.

The Chair said they had the Master Plan approved for Skybrook and they included this area.

Ms. Nelson said it was approved as (MDR) Medium Density Residential.

Mr. Koch said he cannot answer the question as to why it was down zoned to (LDR) Low Density Residential from (MDR) Medium Density Residential. He said there is a statement in Rodgers letter in which he says "having obtained subdivision approval"; there has been no subdivision approval for this particular part of that development, only the Master Plan. Mr. Koch said the question is whether there are any vested rights here.

Mr. Koch read from a document that is on the letter head of the Design Resource Group, he said they are meeting notes from a meeting that was held on November 1, 2005, and it involved Rodger Lentz, Mr. John Loberg, Mr. Jim Guyton, and Ms. Krista Murphy. Mr. Koch summarized the pertinent parts of the meeting notes:

- The parcel was rezoned from MDR to LDR pursuant to the countywide rezoning changes in June 20, 2005.

- The number of units and type of units (multifamily/townhome) will be grandfathered under Skybrook Master Plan. Since no site plan was submitted as part of the Skybrook Master Plan, any new site plan will need to follow the New Cabarrus County Ordinance. Since LDR does not allow townhomes, need to follow the general townhome requirements as well as those for MDR (original zoning under Skybrook Master Plan) in the New Ordinance. This interpretation can be challenged by the Planning Board.

The Chair said it is beyond him when you approve the Master Plan for a subdivision and then you turn around and rezone it before the Master Plan is completed. He does not understand that.

Mr. Loberg, representative of Westfield Homes, addressed the board stating he was at the meeting and his feeling as to the spirit of that discussion was that since Skybrook had received an overall Master Plan approval years before, including this site being for attached housing, that that portion of the approval would be grandfathered so it would not be a zoning issue but there would be an issue regarding the standards of our product. He said that is what Rodger's letter was addressing and that is why they agreed to the design standards that they are agreeing too.

The Chair said unfortunately the County Commission did not make that exclusion he guesses. He thinks staff is interpreting it to mean that the Master Plan did include these units, just not the design of the units.

Mr. Koch said apparently there is no objection to the rezoning and there was no request for vesting of rights which is allowed under the Ordinance. He said it is very difficult to tell legally where the matter stands.

The Chair asked if he is saying that they should have requested.

Mr. Koch said he would not go so far as to say they should have, he is saying that they could have.

The Chair said it kind of sounds like that is what they were there in the meeting with the staff doing.

Mr. Koch said that would have been too late.

The Chair said it should have happened before that.

Mr. Koch said yes, at the time of the rezoning, when it was advertised and all that.

The Chair said you are talking about an oversight, perhaps a lack of understanding of what was going on.

Mr. Koch said perhaps, what he is saying is those are some options that would have been available at the time of the rezoning; to come in and object to it and say this is part of the Master Plan with MDR do not change it but if you are going too we want our rights to vest under the Ordinance. He said you can make that request, you have those two options and neither of those two things were done and as a result it leaves us in the predicament we are in now, where you basically have LDR zoning on this property, no approved site plan and they want to put townhomes on it which are not allowed in LDR.

Ms. Daugherty said theoretically this should be a request for rezoning without the site plans because she thinks theoretically, should this pass, we would have set a precedent that you can add a townhome subdivision within LDR despite it being illegal.

Mr. Koch said that is a good observation and he is concerned about ramifications of it. He said if it were just something that was specific to this one parcel and would not have any legs to, it you might be able to look at it differently and say because of what has occurred, we will just deal with this and it would not have any precedental value. He said it is his understanding that there maybe some other parcels that maybe in a similar situation, none of those are addressed in any of these documents but they may be out there.

Ms. Daugherty said in this case it is basically saying it does not apply to the Draft Plan and in a case that was very similar to this where they had rezoned we said it is not compliant with the Draft Plan and that was kind of our standing for denying something that was really hard to vision.

Ms. Zakraisek said the issue is they had an overall master plan and have designated this particular parcel. She has been talking with Mr. Loberg about another parcel that they have, it calls out the density and says proposed townhomes and proposed multifamily. She said the issue is that we have this one right now which they have some documentation for; they met previously after the ordinance was changed and had gotten an interpretation. She said they also have another parcel where they are going to be in a similar situation. She would guess that what ever happens at this meeting, they would be expecting the same result when they bring the next plat in for the next section.

Ms. Zakraisek said in some of the discussions what they are proposing for the next section would also have to have some leeway. She said the issue then becomes whether or not because they were a part of the Master Plan but specifically did not have a preliminary plat or site plan, is that enough in the Boards opinion to continue; do we need to go back and have it rezoned. She does not know what the answer is to that question. She said this afternoon she had some concerns expressed from some of the board members so she approached Rich about it and that is what he is trying to help us through. She said Ms. Daugherty is correct in saying that in the past if it was not consistent with the Land Use Plan and somebody was asking for a rezoning change, that the Board has denied it.

Mr. Berg thinks the difference is if we are talking about the same case is that they had not started anything prior where as here they have. He asked if they had requested the vesting rights could they have been granted under the Ordinance. He is not clear on what is required, it talks about having a site specific plan and he does not know if the Master Plan could be considered as that or if it would need to be something more developed.

Mr. Koch said that is a good question. We have pulled the statue and the ordinance to try to see if we could make some determination of that.

The Chair said it was not rezoned and we would be defacto rezoning it if we allowed MDR to apply and it seems to him that if they are required to come forward with this at this point in time, County mistake or not, rezoned to LDR, the proper approach would be to rezone it back to MDR.

Mr. Koch said are you talking about rezoning it back to MDR.

The Chair said yes.

Mr. Koch said that would be the cleanest way to deal with this problem.

The Chair said it seems to him to be the cleanest way to do it. He cannot understand how without changing the zoning we could allow those since it was done and it was done as an act of law. He does not see that the Board has any authority what so ever to do what is being asked here tonight.

Mr. Koch said you could do it but it is a very murky situation.

The Chair said we cannot change the law and the Zoning Ordinance is a law.

Mr. Koch said you could approve the site plan, but the legality of that is called in question. He agrees with the Chair but it may be difficult to support.

The Chair said if anybody challenged it, seems like to him going into court we are going to lose.

Mr. Koch said it is a very murky legal position that this parcel and site plan now finds itself in because of what has happened in the past.

Mr. Loberg said we are obviously hanging our hat on the fact that it is in the Skybrook Master Plan. He said when the Skybrook Master Plan was approved virtually all of its areas were designated for their use without specific site plans; single family here, detached here, single family attached there and this is in that category of single family attached.

Ms. Daugherty asked if Mr. Loberg was adverse in withdrawing the petition and asking for rezoning.

Mr. Loberg asked what would be his other options. He is not familiar with what his options would be.

Mr. Koch said the Board has the application before them this evening and could vote it up or down; the second option would be to table it and look into some of the issues a little bit more; third would be for the applicant to withdraw or he may even be able to lay it aside and ask for the property to be rezoned. Mr. Koch knows there are some fees associated with some of these things and it may be that the applicant would not have to withdraw it which would put him in the position of not having to pay the fee to resubmit it. Mr. Koch said it seems to him that the applicant should be able to lay it aside or table it and still consider a rezoning while that is on the table.

Mr. Lancaster asked if the applicant had vested rights before the rezoning in that area went through and it is just being realized obviously, is that something that could be fixed on a staff level if he withdrew it and the problem was corrected that he had vested rights the way the property was zoned prior to the rezoning?

Mr. Koch said that is one of the issues and is not sure that he has vested rights under the Statute and under the Ordinance it is fairly specific. He said it gets back to the issue of whether it is a site specific development plan or a phased development plan as it is defined in the State Statute. He does not know the answer to that based on that sort of Master Plan.

The Chair said we do know that the County Commissioners rezoned it, right or wrong, they rezoned it.

Mr. Koch said as a county wide rezoning.

The Chair said there were other people caught up in that as well.

Mr. Koch said he is not advocating for their site plan or against it, he is trying to make sure that what ever the Board decides to do it is something that we can support legally.

The Chair said as he understands what Mr. Koch is telling him, they had an option at the time before the County Commissioners voted to do this county wide rezoning to ask them to give them vested rights and to recognize that they had a Master Plan. He does not understand why they have to do that after the county already approved their Master Plan but you are telling me that is an option that they had.

Mr. Koch said that was an option they had but he does not mean by stating that that the failure to do that necessarily forecloses any vested rights. He is saying that is an option that was available to them at that time to have that established.

The Chair said have that established as part of the act.

Mr. Koch said right, but it still does not answer the question as to if they have vested rights or not.

The Chair asked who would determine whether they had vested rights or not.

Mr. Koch said without a request as such, it could be determined he supposes by staff or by this Board, as to whether they have vested rights.

The Chair asked if we argued that we believe they had vested rights or that they should have had vested right we could approve this plan.

Ms. Daugherty said what happens down the road when a similar circumstance comes.

The Chair said if it is similar circumstances and they had a site specific master plan then we would treat them the same way.

Ms. Daugherty said they just had a Master Plan.

The Chair said the applicant had the specific areas identified in terms of what kind of housing and all was going to be put there. He said they did not have the drawings for the houses and the lot lay out, but it was indicated in the Master Plan that there would be 71 townhomes in this area.

Mr. Berg said if we determine that they had vested rights when does the two year time limit start?

Mr. Lancaster said he thinks at the time that the rezoning occurred any time prior to that.

Mr. Koch thinks that might be a good point at which to start, it does not start from the time they approved it, it is based on some bench mark, some time which could be several different things. He thinks there is something in the statute that deals with that. He said there is not only the statutory ordinance based vested rights there is also common law vesting rights which has to do with whether there can be a showing that there has been a substantial investment in the property; the reliance upon a particular belief that you had a zoning classification and the right to develop it as originally proposed.

Ms. Daugherty asked if you could construe that considering that it is vacant at this point and time or would you construe that the construction of the remainder of Skybrook is indicative of that intent.

Mr. Koch said he does not know the answer to that. He said generally they are looking at expenditures that have been made with reference to the site and that becomes very much fact based because you are not going to have that same level of expenditure activity in each situation. He said in some, you might have had some substantial engineering, surveying and architectural type fees that do not show any land disturbing activities on the site with those kinds of expenses; you might have one that went beyond that and

actually did not have that much in those kinds of expenditures but were actually out pushing dirt around at the time that the issue came up so it could be either or a combination.

Mr. Koch said the Board may want to consider tabling this until the next meeting to get some clarification on some of these issues, and maybe even get some guidance from the Institute of Government, on some of the legal issues on this.

The Chair asked Mr. Loberg if he had a problem with tabling for a month.

Mr. Loberg said ultimately no if that is the Boards wishes. He said he would like to make a few more comments. He said if you get into the books of the master developer you would see that they allocated their cost based upon relative sales value of this property being higher than the second phase. He said there is indirect evidence of that anticipation. Mr. Loberg said if we were a stand alone site he would agree that vesting rights would be questionable but being a part of Skybrook, we are caught blind sighted. He said they signed a contract in July 2005 and was told by the Skybrook folks that zoning was no problem and then in the fall it was we better look into this a little more closely; and we have gone down the path to where we are now. He said they have closed on the property in good faith expecting that the use would be as we were intending.

Mr. Koch thinks it would be helpful if we could get some of the materials you talked about maybe from your file and from Skybrook so we can see what we are dealing with factually on that issue and then see how those facts fold in with the legal issues that we have identified and try to have some clarification for you next time around. He said with so many different facets it may be well worth it to look at it further and perhaps get the Institute of Government to weigh in on it and get some guidance from them.

Mr. Loberg said in the context of common law, doing the right thing; when you look at the surrounding land uses commercial is going to be across the street, swim center to the west, the amenity center to the north the only adjoining other residential is the other going in the right hand corner of Skybrook

The Chair said it is part of a larger plan and is consistent with that plan.

Mr. Berg said if it were a rezoning he would support it but he began looking through the ordinance trying to find a way to approve it and he couldn't because of Section 1-8. He said unless he is convinced that Mr. Loberg has vested rights, he is not sure how the Board could legally approve it.

Mr. Koch said if it were only this parcel but we have others out there and if it is going to set some precedent, he thinks we all need to be satisfied that were are on firm legal footing if that is what the Board chooses to do.

Mr. Berg **MOTIONED, SECONDED** by Ms. Daugherty to table Petition C2006-03(S) – Preliminary Subdivision Plat until the next meeting. The vote was unanimous.

Proposed Text Amendment to Chapter 3

The Chair introduced the next item on the Agenda, a Proposed Text Amendment to Chapter 3. He said it deals with being able to have a nursery in an Office/Limited Commercial Zoning District.

Ms. Susie Zakraisek, Planning and Zoning Manager, addressed the board stating last month we discussed this and Mr. Alley could not be here but he is here this evening if the Board has any questions. She said in the packet she put the existing language and you will see that it does impact a couple of different areas. She said in addition to changing the chart, we also have to go back and change the list and some different things. She also cleaned up the language; where it says permitted based on standards, where we now do not have any standards, she cleaned that up and made it permitted by right based on the Boards suggestions last month.

The Chair asked if there were any questions. There being no questions the Chair asked for a motion.

Mr. Berg **MOTIONED, SECONDED** by Mr. Prince to recommend to the County Commissioners that the text change be approved as written. The vote was unanimous.

Directors Report

Ms. Zakraisek said since the Wayne Brothers case did not pass by the expedited vote it will be heard by the County Commissioners on September 5, 2006 at 6:00 p.m. If any of you are planning to attend that meeting, please coordinate amongst yourselves who will attend so we only have one or two folks attending so that it is not considered another public meeting. She said if any of you show up to anything that is over a quorum we do have to advertise it as a public meeting.

Mr. Fesperman and Ms. Daugherty will attend the County Commissioners meeting on September 5, 2006 at 6:00 p.m.

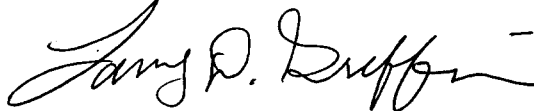
Ms. Zakraisek stated that Mr. Carl Hill passed away this week on Monday.

There being no further discussion Mr. Berg **MOTIONED, SECONDED** by Mr. Fesperman to adjourn the meeting. The vote was unanimous. The meeting adjourned at 8:45 p.m.

**FINDINGS OF FACT
APPLICATION C-715**

1. The Board adopts as its own findings the responses of the applicant under the General Requirements of the application.
2. The Cabarrus County Zoning Ordinance requires paving and does not permit gravel for the parking areas, although the applicant requested gravel in an effort to decrease the amount of water run off from the parking area. This was termed a recommendation, but it is not clear whether it was required by some local, state or federal requirement.
3. The Cabarrus County Zoning Ordinance requires a level 1 buffer for this property, and the Board finds that an opaque buffer with a minimum of 75 feet of buffer is necessary on the side of this property adjacent to Mr. and Mrs. Snodgrass, a condition to which the applicant agrees.

APPROVED BY:



Larry Griffin, Chairman

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:

Susie Zakraisek
Planning and Zoning Manager

1. All development must be in accordance with the site plan and building elevations provided by the petitioner. In the event a site or elevation change is necessary, applicant agrees to Planning and Zoning Board review and approval for such changes. (Planning)
2. Residential development shall not commence until public utilities are available to the site. (APFO/Utilities)
3. All residential development will be subject to a preliminary plat approval by the Cabarrus County Planning and Zoning Commission. (Planning)
4. All driveway and access permits are subject to approval by NCDOT. (APFO/NCDOT)
5. Uses shall be in accordance with the approved list of uses submitted as a part of this petition. (Planning)
6. Petitioner must complete/install all roadway improvements in accordance with NCDOT requirements. (NCDOT/APFO)
7. All nonresidential development must comply with Cabarrus County Commercial Design Standards. (Planning)
8. Applicant agrees to submit site plans and elevations for all sites designated as "future." Individual site plan and architectural approval shall be granted by the Planning and Zoning Board. (Planning)
9. Applicant agrees to design and construct the development utilizing sustainable design practices. (Planning & Zoning Board)
10. Applicant will submit a completed application for LEED certification for the headquarters project. (Planning & Zoning Board)

The vote was 5 to 4 to **Approve** Petition C06-05 06 (R). Mr. Berg, Ms. Cook, Mr. Fesperman, Mr. Haas and Mr. Prince in favor of approval. Mr. Griffin, Ms. Daugherty, Mr. Porter and Mr. Shoemaker in favor of denial.

Mr. Haas **MOTIONED, SECONDED** by Fesperman that the application is consistent with the northwest area plan and that it is reasonable and in the public interest. The vote was 5 to 4. Mr. Berg, Ms. Cook, Mr. Fesperman, Mr. Haas and Mr. Prince agree with the consistency statement and Mr. Griffin, Ms. Daugherty, Mr. Porter and Mr. Shoemaker do not agree with the consistency statement.

The Chair introduced the next item on the Agenda, Preliminary Subdivision Plat Approval - Petition C06-03(S) Bella Vista – Shea Homes.

Mr. Chris Moore, Planner, addressed the board presenting Petition C06-03(S) Preliminary Plat Approval for the Bella Vista Subdivision. He said it is developed under the Amenity Residential Subdivision Development Standards set forth in Chapter 5 of the Cabarrus County Zoning Ordinance.

Mr. Moore said the applicant is Shea Homes, the zoning is LDR-Low Density Residential, and it is in the Number 10 Township – Midland. The property is located along Zion Church Road. He said they are proposing 497 lots on +/-328.941 acres. The proposed site is currently vacant and wooded. The surrounding properties are vacant,